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THE NATION

DECEMBER 21, 1974 50 cents

The Democrats
## Mainstream at Midterm
*Mark Pinsky*

## PRISONS: THE FAILURE MODEL
*David J. Rothman*

Criminal Data Banks
## The Fraudulent War on Crime
*Hannah Shields & Mae Churchill*

## ONE NIGHT IN STRASBOURG
*John Berger*

After Stockholm
## Planet-Savers in Nairobi
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# LETTERS

## unique

*Eugene, Ore.*
Are you the only national media editor with guts? Is Congress wholly lacking in that commodity? I read Bill Nigut's article on the Nixon-Ford pardon deal with indescribable satisfaction ["The Notorious Pardon: Some Gaps in Ford's Candor," *The Nation*, Nov. 9]. Congratulations to you and him.

*Irving Brant*

## petard

*Cleveland, Ohio*
In "Pollsters and Pundits: The Tricks of the Trade" [*The Nation*, Nov. 30] Lee Benson, Kevin Clancy and John Kushma have very effectively demonstrated the fallacious methods and foolishness of the pollsters and pundits. In one sentence they have correctly stated Levy and Kramer simply do not know what they are talking about when they discuss American ethnic groups. Unbelievably, in the same article, the authors make the exact same mistakes of the pollsters and pundits whom they have exposed when, on page 555, they say: "In recent years, it is probably reasonable to think, Jews and blacks have strongly tended to vote *en bloc*."

To state the matter simply, Benson, Clancy and Kushma do not know what they are talking about when they discuss Jews and blacks.

*Eugene H. Freedheim*

## on Hofstadter

*New York City*
Leo Ribuffo's adjectival, *ad hominem* attack [letter: *The Nation*, Oct. 19] against my retrospective essay on Richard Hofstadter's *The American Political Tradition* [*The Nation*, Sept. 14] reflects the condescending attitude displayed by too many American intellectuals toward those who seriously question the preservation of the *status quo* in American society as well as in the historical profession. I specified the alternative political tradition which did and still does exist in the United States, which Hofstadter chose to ignore in his aloof treatment of American politics. I attempted to illustrate how his approach isolates the intellectual and thereby allows him periodically to become a scapegoat for social ills. The fact that Ribuffo chose to ignore the thrust of my argument, and unknowingly satirized himself and Hofstadter by stating that Hofstadter's alternative to corruption and bloodletting was "intelligence and a too rare willingness to admit his errors in print," speaks more for his sophistic agility and self-placement in the social pecking order than for any willingness to confront real issues.

There are many intelligent people in our society. Intelligence should not be made the sole criterion for judging someone to be "the most creative and stimulating historian of his generation," as Ribuffo does.

I do, however, appreciate Ribuffo's keen eye in noting an editorial insertion which I should not have accepted. By allowing the word "Instinctively" to be placed before ". . . he prefers to deal with an upper-class gadfly" I was allowing that sentence to make Hofstadter appear biologically driven to make a certain choice. I therefore fully concur with Ribuffo's objection. But remove that word, and there is not another word in my entire essay that could be construed as "psychologizing away his subject's beliefs." Ribuffo's other assertions only serve to confuse ("In many of their analyses, though not their prescriptions . . ."), or mystify ("By failing to see the complexity of the social context, the 1950s in this instance . . ."). I feel that I confronted the arguments Hofstadter offered in his time directly and honestly, and I am sorry that Ribuffo did not see it that way.

*Anthony Gronowicz*

# EDITORIALS

## The Flow of Power

A strengthened Democratic Party, its collective gaz firmly fixed on the Presidential election of 1976, emerge from the Kansas City midterm meeting with the mini convention firmly established as a desirable innovation (See article by Mark Pinsky, p. 646 this issue.) In part the success of the conference was due to astute planning and management by Chairman Robert S. Strauss, Terry Sanford and other party officials, but a combination o more or less fortuitous factors gave major assistance There was, for example, the fall of Wilbur Mills.

Unfortunately for Mills, the Tidal Basin episode oc curred so close to the November 5th election that ther was not enough time for his many friends to attenuate by well-established techniques, the excitement and interes it aroused. The park police had been tactful and coopera tive but, with the campaign coming so soon, and in a post-Watergate environment, the scandal got out of con trol. Then, the bizarre appearance of Mr. Mills on th stage of the Pilgrim Theatre in Boston sealed his fate. I another time—indeed in the quite recent past—it migh not have happened. Grateful colleagues might have rallie to save their powerful friend from the press, the publi and himself.

For years, "Wilbur's Christmas Tree" has been a well known phrase in the corridors of the House. At the righ time, so-called "members' bills" would gather on the desl of the powerful chairman of the Ways and Means Com mittee. Most would be private or individual tax bills usually involving some slight change in the wording o obscure sections of the labyrinthine tax code, which coulc and often did, represent enormous windfall tax advantage for particular industries. "Old Wilbur" was an artist a integrating these amendments into a comprehensive bi which would then be zipped through both houses.

A member who cooperated with the chairman coul expect to find a candy cane on his Christmas tree. I order to provide so many tax goodies for so many mem bers, the Christmas tree had to be controlled by a chair man with almost undisputed powers. The power Mill exercised for so many years was freely given to him b his associates. He was their man. A few maverick Repre sentatives, Les Aspin for one, tried from time to time t upset the Christmas tree routine but with scant success So it is quite conceivable that, given the support he en joyed in the House, Mills might have survived Tida Basin and been kept miles away from the Pilgrim Theatre Not only was the timing in relation to the election disas trous, but the arrival in Washington of seventy-five fresh men Democrats to talk about committee assignments pro vided the needed impetus to undercut the chairman' power. The selection of Rep. Phillip Burton to head th Democratic Caucus was itself a signal that the 94th Con gress would differ from the 93rd. But here, of course the November 5th election returns were the catalyst.

The relative success of the Kansas City mini-conventio reflected not merely the election returns but a quic assessment by all factions of what the presence of thos



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seventy-five new Democratic members foreshadowed and the meaning of the departure of Wilbur Mills. Without these developments, the Kansas City weekend might have taken a different turn.

In the same vein, the defeat suffered by Al Barkan and his cohorts, including the pundit-pollster Ben Wattenberg, represented a fatal misjudgment of the November 5th results. Despite the election, and even after the Democratic Governors' Conference in South Carolina, Barkan lashed out at the Democratic Party in a manner calculated to lessen his influence with all factions. He threatened; he ranted; he acted as though he really had the power, as George Meany's surrogate, to carry out the threats he so freely voiced. In a telephone interview with Harry Bernstein, labor editor of the *Los Angeles Times*, Jerry Wurf, vice president of the AFL-CIO and president of the American Federation of State, County and Municipal Employees, called the Barkan tirade "irresponsible," and added that labor would not walk out at Kansas City "no matter how badly Barkan miscalculates the situation." Barkan seriously misread the omens not merely within the Democratic Party but within the AFL-CIO as well. And the shift of power within the labor federation is itself one of the new facts to note about the Democratic Party. It is not yet, by any means, an "open" or a people's party but it is moving in that direction. One Left, or "radical" New York Democrat, who had supported McGovern in 1972, returned from Kansas City with the comment: "Not all my friends won but all my enemies lost."

A confluence of forces, interacting at the right time, moved the party toward the future. The realists were quick to note what had happened. "I recognize when power moves," said Mayor Richard Daley of Chicago, who has announced that he will run for re-election in 1975. The cheerful Democrats might have taken time at Kansas City to adopt a resolution of thanks to Richard Nixon for so abusing power that he set in motion a chain of events which culminated in the success of the first mini-convention in the party's history. That weekend of stock-taking and power testing may in turn prove to be the springboard to victory in 1976.

## The Rockefeller Issue

The key issue was not whether Nelson Rockefeller would be confirmed; that was never really in doubt. The issue was—and still is—what the confirmation means. The overtones of the hearings are more important and more revealing than the foregone conclusion.

The Rockefeller family fortune is a massive fact of American society. Its unsavory accumulation by J.D. Rockefeller, Sr., by methods which if pursued today would land him and his associates in jail, is irrelevant: this is the 20th century, not the 19th. What matters is that he accumulated a fabulous fortune, retained most of it (his philanthropies were likewise on a grand scale) and his heirs tended its growth. What the Senators and Representatives had to confront was the political significance of such enormous economic power in the hands of a Vice President.

His judges confronted an awkward historical dilemma: American social history, myths and folk beliefs interacted

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with, in fact overrode, the evidence adduced at the hearings. The evidence dealt with recent and current politics and economics; the history had ancient roots, yet the two could not be separated. The name of Rockefeller has been synonymous for several generations with the possession of wealth beyond the compass of normal dreams. Could then this Rockefeller be rejected without somehow affirming the proposition that wealth accumulated on this scale was per se against the national interest? Most members could not make any such affirmation. Such a proposition seems to go against the grain of the American success myth. The committee members did not see how they could say "no" without seeming to reject an essential part of the American heritage. A vote against confirmation might even be construed as a condemnation of the essence of capitalism—that is, success measured by money.

Thus the Senators and Representatives expressed their uneasiness rather more in psychological than political terms, as if they were not quite sure what they, as individuals, really felt about this astronomical accumulation. None expressed this feeling more eloquently than Sen. Robert Byrd, an upwardly mobile type, a "self-made" man. Byrd was by far the best questioner on the committee: one could infer that he was also the one most sensitive to the dilemma. The others, for the most part, left a great deal to be desired in their probing. As one instance, the committee let Robert Anderson off the hook on the "Delada connection."

There were plenty of counts against Rockefeller: Attica, the Albany Mall, the World Trade Center and other construction disasters, the hysterical drug program, his personal arrogance and insensitivity, his keeping political "retainers" in his debt, the clandestine financing of the derogatory Goldberg biography, his hawkish and evasive attitude on Vietnam and other items of that sort. But all this evidence went to the proposition that Rockefeller was not the kind of man his critics would have liked Ford to choose. The choice, however, was his, not theirs.

Even cumulatively, the evidence against Rockefeller was not disqualifying. Nor was it shown that he was lazy, incompetent, or personally dishonest, or that he did not have the public welfare in mind—as he understands the public welfare. His record as Governor of New York, especially in the early terms, was in his favor; at any rate the voters so decided four times. Along this line, a novel situation has developed. With Rockefeller confirmed, the country has a Vice President far superior in variety of governmental experience, personal force and background, to the President who appointed him.

Another offsetting consideration was related to the hypocrisy inherent in the confirmation procedure. It was marked by not a little self-righteousness from Senators and Representatives who have never been reluctant to accept campaign contributions from almost any source. Aside from questions of morality, Rockefeller was more than a match for his questioners. He has always excelled in aplomb, and through this long inquiry he conducted himself with enviable astuteness, never really blew it, never lost his temper, laughed a lot, and in general conducted himself as a skilled politician.

The public was probably with him for the most part: why should this multimillionaire be pilloried because he had inherited what most of them would like to have inherited?

Yet all these pros and cons leave unresolved the basic issue: Is it in the long-term interest of the country and its people that wealth of this magnitude should be held intact over four or five generations, with no end in sight? In economic, cultural and political power the Rockefeller wealth resembles a great mountain rising out of the prairie. Is such social topography consistent with the values we profess to cherish? Goldwater, to his credit—though he may be acting at least in part from political pique—stated the case pretty well. Influence is no myth. It exists. The Rockfellers—and not the Rockefellers alone—have enormous power. That's a fact. Is this consistent with our aspirations for a truly democratic society?

This issue had been neglected so long, not only neglected but hidden, that it could not be raised now in the form of rejecting this man simply because he had so much money. Social problems are not solved by making scapegoats of individuals. This Rockefeller was not to blame for the neglect of the issue: the people are to blame. Most of us worshipped the golden calf as he did. And now? The hearings have laid the facts bare—not entirely and not all of them, but we now have a good view of the terrain. It is even possible that the publicizing of his finances and the uses to which they have been put will force the Vice President to do some rethinking, but he is 66; the chances are he will remain what he has been. The young and middle-aged, even the old, have no such excuse: they were not raised as he was. Not to confront the underlying issue now would be the mistake of the century.

## Kissinger's Headache

This one is only starting; the acute stage is due next summer, when our military agreement with Spain comes up for renewal. It exists now in the form of an executive agreement giving the United States facilities for air bases, nuclear munition dumps, bases for nuclear submarines and surface vessels of the Sixth Fleet, etc. Originally signed in 1952, the pact has been renewed at intervals, always at increased rentals. Now, however, the landlord wants more than money.

The American military presence on the Iberian Peninsula has been a bulwark of fascism. Now Portuguese fascism has fallen and Spanish fascism is tottering. So the American presence is all the more important to what remains of the Franco regime, not only for military and economic aid but to avert, if possible, what happened in Portugal.

Spanish rightists, not necessarily confined to the Franco junta, complain that the executive agreement exposes Spain to peril from unspecified sources, but it is evident that what they fear is internal subversion, whether by democratic or Communist elements matters little, since in their ideology the difference is only a matter of degree. Accordingly, they now demand a security *treaty*, obliging the United States to come to the aid of Spain, as Senator Fulbright predicted we might when the present agreement was signed in 1970. Short of military intervention, a treaty would enable Spain to sneak into NATO.

It is a measure of the Caudillo's desperation that he



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and his aides are willing to take the risk that a mutual security treaty may be turned down in the U.S. Senate. Assuming that Ford and Kissinger are willing to put their own prestige on the line by proposing such a chummy relationship, the Senate's reaction might be a good thing for those forces in the United States and Europe which have opposed Franco from the beginning. In a floor debate, a great deal might come out that has been covered up all these years by U.S.-Fascist collaboration—the role of the CIA, for instance.

Some of the news reports emanating from Madrid are vaguely worded, reflecting the newsmen's difficulties in getting informative statements from the U.S. Embassy staff as well as from Franco's press agents. For instance, a weekly economic magazine is said to have published an opinion poll in which only 18 per cent of those questioned favored the continuance of American bases, with 48 per cent opposed and 34 per cent abstaining. If these approximate figures express popular opposition, why did Franco's propagandists allow them to be published? Or were the figures actually government propaganda against a continuation of executive agreement and in favor of a treaty? The story states further that most of the abstentions came from workers, who have most to fear from the police, and from women, who are little more than chattels under the present regime and will help to knock it over when the time comes.

The important underlying fact is that any agreement with the Franco regime, regardless of its form, will be as fragile as the regime itself. Mr. Kissinger's detestation of communism is well documented by the U.S. actions he sanctioned in Chile, but he faces the prospect of Communist participation in governments in Greece, Italy, Portugal and, tomorrow, Spain.

## The Hiss File

Alger Hiss, a cheerful man at 70 years of age, looks forward with undiminished optimism to ultimate vindication and a full Presidential pardon for a crime, perjury, which he did not commit. But, at the rate the FBI is responding to demands for release of its files bearing on his case, he may well be a centenarian before this goal is achieved. As pointed out in our issue of December 18, 1972, Prof. Allen Weinstein of Smith College, a scholar long interested in the case, brought an action with the assistance of counsel for the American Civil Liberties Union to gain access to the file. Then on July 11, 1973, Elliot Richardson, as Attorney General, promulgated an order which specifically authorized the release of such material from the investigatory files of the FBI. [See: "The Hiss File," November 5, 1973.] After an exchange of letters and further negotiations, the government in effect agreed that the materials—some 53,000 pages—would be made available subject to certain conditions, such as payment of photocopying fees and the necessary processing of the files within the purview of Mr. Richardson's order. But months have gone by and the FBI, specifically its director, Clarence Kelley, has been playing games with Weinstein and his attorneys. Some material has been delivered, but with deletions of a character that robs it of relevance and interest. Key names, for example, have been deleted; other portions have been heavily censored.

So once again Weinstein, with the assistance of his counsel, John H.F. Shattuck and Melvin L. Wulf, has been forced to file an action in the courts to secure compliance with the original agreement. In this action Weinstein charges that the FBI "did not employ any rational or legally supportable standards in selecting the token number" of 112 pages released out of the 53,000 pages in the file. Allegations in the complaint make it clear that the defendants, including Saxbe as Attorney General and Kelley as director of the FBI, are determined to circumvent the original understanding. What emerges is a pattern of obstruction so unyielding that if the files are ever to be made available in an uncensored form, the material may have to be pried loose a page at a time. Such action is in sharp contrast with the known fact that the FBI has made materials available from its files to selected journalists and others that were not covered by the terms of the Richardson order.

The policy, in a word, is to release material, historical or otherwise, to friendly sources if the material reflects favorably on the FBI. On the other hand, the bureau will fight tenaciously against releasing any materials which it feels might reflect on its activities or lead to conclusions of which it does not approve. This is exactly contrary to the agreement negotiated in the wake of Richardson's order, and also to the provisions of the Freedom of Information Act, the judicial review section of the Administrative Procedure Act, the applicable regulations regarding access to historical records (the Richardson order), and the First and Fifth Amendments. The action, first of its kind under the amendments to the Freedom of Information Act, is of major importance since similar actions are in the offing; it should be carefully reported by the press. If its behavior in the Hiss case was entirely proper, why should the FBI be so reluctant for the file to be scrutinized by reputable scholars?

## Spring Will Be a Little Late

*Portland, Ore.*

Out in Oregon's coastal Tillamook County, the home of "Trees, Cheese and Ocean Breeze," there is little except the magnificent scenery for the Chamber of Commerce to rave about these days. The breeze is as fickle as ever but the farmers in this land of Tillamook Cheese aren't whistling a merry tune, and for people whose jobs are in the woods products industry, the prospect is one of disaster. The level of insured unemployment in Tillamook County is a whopping 16.4 per cent and David Scheele, the local State Employment Division manager, shakes his head ruefully and sums up what everyone here knows: "It's going to be a long winter."

The sagging lumber industry is primarily responsible for the fact that 2,000 of the county's 7,400 eligible workers are jobless. (As elsewhere, a lot of potential jobholders haven't entered the labor field because of the unemployment backlog.) Mill after mill has cut production or shut down entirely. A few towns have been devastated. In Garibaldi, whose population barely exceeds 1,000, the closing of Oregon-Washington Plywood, Inc. put 200 persons out of work overnight. "I don't know



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how we'll survive," said a merchant. "This could become a ghost town. People are starting to move away. With the mill down, it doesn't take a genius to figure out what will happen to the stores. And where will the town and the school get their money to operate?"

Retail sales are way down—"I don't even want to talk about it," said an apparel store owner in the town of Tillamook—and restaurant trade is drastically off. "What can you do on $88 a week?" asked a man who was earning $6.10 an hour when he was laid off.

Although some people have left the county, most of the unemployed are staying on because they are home owners and because there are no signs of jobs elsewhere. (As in the depression of the 1930s, many of those who leave go to farms owned by relatives. But there are a lot fewer farms now than there were forty years ago.) The great majority are hoping to "tough it" through the winter.

But spring 1975 offers no bright promise in Tillamook County. Unemployment benefits will start to run out then and, for the first time in their lives, some families will be forced onto the welfare rolls. Almost a quarter of Tillamook County families are now receiving food stamps.

Other Oregon lumber counties are also plagued by high rates of insured unemployment: Jackson, 9.3 per cent; Lincoln, 9.4 per cent; Coos, 9.6 per cent; Lake, 9.7 per cent and Columbia, 11.5 per cent. But the county hardest hit in the state is Josephine, with 18.4 per cent. Five mills closed down recently but, according to Don Stewart, chief of research and statistics for the Oregon Employment Division, about half of Josephine County's claims are from jobless Californians who crossed the Siskiyou Mountains in search of greener pastures. Their unemployment benefits are paid through a reciprocal agreement with California.

The only Californians Tillamook County wants are those with plenty of spending or investment money. (So far, few of the first and none of the second have presented themselves.) A "state of labor emergency" was declared by the county commissioners, not only in the hope of getting some federal funds but according to commission Chairman Charles Bailey, to "let the public know that there's no use in anybody coming down here looking for a job."

The only real fear in Tillamook County is that with the recession here, the depression must be close behind. "What we've got so far," said a jobless worker in Garibaldi, "is cake compared to what we'll have in the spring. And what do we do then?" RALPH FRIEDMAN

THE DEMOCRATS

# MAINSTREAM AT MIDTERM

**MARK PINSKY**

*Kansas City*

Three weeks before Democratic delegates gathered here for the party's midterm conference, former Sen. Eugene McCarthy was asked whether he agreed that the upcoming meeting was shaping as a "battle for the soul of the Democratic Party." McCarthy, ever the witty Black Prince, replied, "Oh, I don't think so; it will be more of a fight over grandmother's trunk." What actually happened in Kansas City is that the Democratic Party prepared to take power in Washington in 1976. By reaching an internal accommodation, it has been transformed into an essentially hollow but nevertheless almost irresistible juggernaut, rambling inexorably toward the White House, the trip from K.C. to D.C. now calculated to take no more than two years.

The putative issue around which this formation took place was ratification of the party's First Charter, drafted over a two-year period by the 167-member Democratic Charter Commission. Before the conference, the draft charter was thought to represent the lowest common Democratic denominator, both ideologically and organizationally. What issues remained for the delegates to decide on the Kansas City convention floor were largely symbolic, the hostility of small differences. Of these there were remarkably few, given the last ten years of the party's history.

However, within this context, the three floor "fights" over changes in the Charter were significant. On the matter of mandating rather than simply permitting policy conferences in the future, a compromise article mandating one more such meeting in 1978 failed, but by less than 200 votes—a surprisingly close margin. A similar move, mandating a party judicial council which would in large measure eliminate pre-convention credentials battles, passed, thanks to a late supporter in Kansas City, Edward Bennett Williams, the Washington lawyer. Williams, who is also serving as treasurer of the Democratic National Committee, was won over during a meeting of the rules committee. He said that his experience in 1972, when eight members of his prestigious firm were tied up in litigation on behalf of the National Committee—the bill for services is still unpaid—convinced him of the need for a strong, mandated judicial council. The emphatic support by Williams considerably softened the opposition of Chairman Robert Strauss, and persuaded the swing votes on the Rules Committee to make the recommendation a majority report to the conference as a whole.

The key vote of the session came on a matter of criteria for implementing affirmative action programs at all party levels; it demonstrated a new dynamic for decision making within the party. Beginning on the morning after Election Day, 1972, conservative elements of the party—organized

*Mark Pinsky is lecturer in government at North Carolina Central University in Durham.*



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labor, big-city bosses, Southern conservatives, Johnson administration veterans and supporters of Sen. Henry Jackson, led by COPE's Alexander Barkan—had begun a holy war against "quotas" in any guise whatever. In the meetings of the Democratic Charter Commission, AFL-CIO representatives labored tenaciously over every word in Article 10 of the draft charter, which dealt with affirmative action. The issue was so emotionally charged, however, that the Charter Commission was unable to agree on the proper phraseology and settled in the end for four alternative wordings.

Three weeks before the Kansas City conference, while Chairman Strauss was still involved in delegate negotiations with Barkan over compromise language for Article 10, Gov. John Gilligan of Ohio proposed to a Democratic governors' meeting in Hilton Head, S.C., that they endorse, with one modification, the language on affirmative action drafted by the Mikulski Commission on Delegate Selection, whose rules govern election of delegates for the 1976 Democratic National Convention, as well as the 1978 party conference (the Charter, when ratified, takes effect in 1980). Gilligan, who as a member of the Mikulski Commission actually drafted the language of the section, argued strenuously and emotionally for the wording, and the governors responded by unanimously endorsing the Mikulski language.

Barkan was angered by the move; Strauss irritated and embarrassed. The chairman had obviously been undercut by the governors' move, but unlike the recommendations from reformers, blacks and women, a recommendation from every single Democratic governor—including George Wallace—was even more irresistible than one from George Meany. So Strauss and Barkan went along with the "compromise," reluctantly and grudgingly at first, but in the case of Strauss, enthusiastically by the time he appeared on *Face the Nation* on December 1.

In Kansas City, the Black Caucus quite unexpectedly upped the ante, calling for deletion of the implementation section of the article which had the effect of weakening the Mikulski language. The Women's Caucus decided to make a stand for the same issue. There were hints of a walkout by individual black delegates but it seems clear that it was a bluff, as the governors' compromise was an arrangement both the blacks and the women could accept. Chairman Strauss was adamant; no deviation from the compromise wording. Even Leonard Woodcock of the UAW voiced doubt as to whether any changes could be made in the wording.

Contact was then made with a group of governors attending the conference, headed by Minnesota Gov. Wendell Anderson. The governors met twice during the charter debate Saturday and, at the suggestion of Reubin Askew of Florida, deletion of one sentence of the implementation section was offered as a compromise. The blacks and the women agreed.

As important as the substance of the compromise was the manner in which it was arrived at, who participated in the decision and who was merely informed of it when the governors and the two caucuses had agreed. Mayor Daley and Philadelphia Democratic Chairman Pete Camiel were asked for their blessings, which they bestowed (both Philadelphia and Chicago have mayoral races in 1975), Chairman Strauss was informed of the compromise after it was reached, and Al Barkan, sitting in the balcony of the hall, learned of the compromise when it was announced from the podium to all the delegates.

COPE's slide from power in the high council of the Democratic Party began in Miami in 1972, a convention Barkan still refers to as "the great misfortune." In Miami, COPE was clearly outfoxed at the grass roots; in Kansas City, it began to fall apart. On almost every vote, labor delegates representing the American Federation of State, County and Municipal Employees and the Communications Workers of America allied with those of the UAW to support a reform position. Black delegates from "safe" AFL-CIO unions never thought twice before leaving the Labor Caucus to attend a meeting of the Black Caucus. Throughout the weekend, Barkan's chief "hit persons," Jacob Clayman of the Institute for Union Democracy and Evelyn Dubrow of the ILGWU, sought to defend the image of organized labor as liberal and progressive. Clayman and Dubrow, both members of the Charter Commission, delivered impassioned speeches—Clayman to the Rules Committee, Dubrow to the Labor Caucus—recounting in detail the support organized labor has given to civil rights and social legislation in the past thirty years. It was unfair, both said, for labor to be considered a conservative or even reactionary force within the Democratic Party. No mention was made of Barkan's statements in 1972 and 1973 about how all the "kooks and crazies" were going to be driven from the party. By Sunday morning, the hottest rumor on the floor was that Al Barkan was going to be dumped.

And then, of course, there was the ambiance of Kansas City—Rep. Barbara Jordan's effusive introduction of Sen. Robert Byrd; a standing ovation for Mayor Daley. Out on the floor, it was clearly a convention of survivors. The racists and the revolutionaries were gone, sanded off the edges of the party by time and exhaustion. The ambivalence of bold adversaries rapidly jelled into accommodation. It being Kansas City, Harry Truman's name figured in most speeches and many conversations, as the Democratic Party of 1974 shaped itself in much the same form as the Democratic Party of 1948, with both wings clipped, but not amputated, as many had feared. The waves of the 1960s that have enraged, enlivened and invigorated the Democratic Party for the last decade, briefly splashing over a majority in 1972, have subsided. The party is more representative demographically because of the experience. There are more blacks, more women, et al., but somehow they all seem to fit in quite well with the rest of the party, being well-dressed, well-fed and, for the most part, middle-aged.

Perhaps in greatest contrast to Miami, the Kansas City conference ran on time, occasionally ahead of schedule. With an inoffensive Charter and tight rules, Chairman Strauss was able to turn the agenda upside down at the last minute without disrupting the pace. After reversing himself three times in the last eighteen months on whether the conference could take stands on issues, Strauss yielded to pressure from the Congressional leadership and rushed through a change in the rules to allow Carl Albert,



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Thomas O'Neill and Senator Byrd to speak on the economy Friday night, and have their legislative package approved with minimum debate and no amendments. The speeches on the economy, like the one hour of debate that followed, were perfunctory. Unlike the conventions of 1964 and 1968, when the party controlled the White House, criticism was heavily concentrated against the Republican Administration. And, unlike previous debates over race, war and "social issues," there is nothing in current controversies that particularly threatens individual Democrats. Out of power and with Wilbur Mills in eclipse, there is no requirement for unanimity, so the party is free to speak in many voices, calling for nationalization, cutting off of military assistance to Chile, wage/price/profit control.

Of course, certain precautions were taken. Most speeches from the podium, as well as statements in debate, pro and con, on the Charter, were written by John Stewart, an official of the Democratic National Committee. To those reformers angered by this selective change in the rules, Strauss offered a consolation prize: an address to the conference on Saturday morning by Senator McGovern, who had previously been shunted to a policy panel on agriculture, and who wrote his own speech.

The Democratic Party that emerged from Kansas City is an organization without an ideology, save the determination to remain together until after the 1976 election. Until then, within the party there is a new alignment of power, composed of the Democratic governors and the leadership of the younger, more liberal House of Representatives. The era of Strauss-Barkan hegemony in the Democratic Party is over. □

CRIMINAL DATA BANKS

# THE FRAUDULENT WAR ON CRIME

**HANNAH SHIELDS & MAE CHURCHILL**

Late in August every year the FBI issues its Uniform Crime Report on the nation's crime experience, an event that inevitably recalls Tallulah Bankhead's, "There's less in this than meets the eye." In 1972, when the number of reported serious crimes dropped mysteriously for the first time in seventeen years, Elliot Richardson, then Attorney General, disputed the accuracy of the report, stating, "It is universally recognized that only a fraction of all crimes committed are reported to the police at all." At the same time—three months before the 1972 Presidential election—an "audit" of Washington, D.C. crime statistics seemed to confirm the Nixon administration's claim that tough law-and-order policies had reduced crime in the nation's capital by 50 per cent. The audit was conducted by Ernst & Ernst, whose key officers contributed more than $16,000 to the Nixon campaign and played a major role in re-election fund raising. Buried in the report was the finding that 40 per cent of citizens' complaints of major crimes were not reported by District police—surely the most simple, direct way of reducing crime, at least statistically.

Veteran crime watchers assume that crime data are manipulated for political purposes. Deliberate underreporting, exaggerated claims of soaring crime waves, vagaries in reporting methods and even in defining criminal offenses, as well as public reluctance to report criminal activity, have led many to conclude there is a crime rate for all political and budgetary seasons. This year, the annual autumn ceremony of releasing the Uniform Crime Report was unusual in one respect: Attorney General Saxbe chose an audience of big-city police chiefs to announce that the crime rate had risen by 6 per cent in 1973 and by 15 per cent during the first quarter of 1974. He attacked the "grandiose promises" and "patchwork performance" of federal anti-crime efforts, mainly the six-year-old Law Enforcement Assistance Administration (LEAA). He promised a two-year study to "evaluate the effectiveness" of LEAA programs—the traditional euphemism for pulling the plug on politically obsolete federal programs, or relocating them.

While the LEAA grant program may outlive Saxbe as a fixture on the national scene, it is significant that the Attorney General decided to cast doubt on the $3.2 billion program two years before Congressional approval would be needed to keep the bonanza going. When LEAA is finally buried, its chief mourners will be those who have fed well at the pork barrel. In 1970, only two years after LEAA started handing out grants to state and local law-enforcement agencies, the *Reader's Digest*, never known to be "soft" on crime, complained that federal funds were being wasted on such constabulary luxuries as a $3,045 snowmobile for Rio Blanco County in Colorado and a $6,740 outboard motorboat for Union parish in Louisiana. By 1972, *Government Executive* was reporting serious "crime among the crime fighters"—illegal or improper spending of $475,000 in Florida, $593,000 in Alabama, $400,000 in Massachusetts; payment of consultancy fees as high as $75 an hour to such favored firms as Ernst & Ernst; preferred treatment of certain electronics suppliers, such as Motorola, which cornered the LEAA-funded walkie-talkie market in Louisiana and Wisconsin without competitive bids and often at higher than list prices. Although federal law requires administrative agencies to transfer funds in such a way that little time is lost between receipt and disbursement, many states and cities invested their LEAA largesse in interest-bearing bank accounts and private securities. The House Committee on Government Operations found that, while waiting to disburse LEAA funds, many states invested them in U.S. Treasury bonds—a

*Hannah Shields is a free-lance writer in the San Francisco Bay Area; Mae Churchill is the director of the Urban Policy Research Institute, Beverly Hills.*



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kind of shell game in which the state agencies profited by lending back to the federal government its own money at the going interest rates. *Government Executive* called it "ripping off the gift horse." [See "Tooling Up for Repression: The Cops Hit the Jackpot" by Joseph C. Goulden, *The Nation*, November 13, 1970.]

Such wasteful, corrupt spending of public funds —which never reached the level of public exposure of, say, a welfare mother claiming one too many dependents —is only a small, easily understood part of the LEAA story. Far more complex and ominous is the legacy which LEAA will leave behind. To understand where the crime fighters may now be heading one must examine where LEAA has been.

In June 1968—at the peak of the anti-war and civil rights movements—Congress enacted the Omnibus Crime Control and Safe Streets Act, the federal government's first comprehensive anti-crime program. This bill laid the groundwork for a massive federal intrusion into local law enforcement, a function constitutionally and traditionally regarded as strictly local. The statute did not pretend to deal with the conditions that breed crime and violence—unemployment, racism, slums, poverty and disease. President Johnson stated in a message to Congress: "We have dedicated ourselves to change these conditions—and we shall—but our responsibilities require us to find more immediate solutions to the rising crime rate that will help us maintain order while we build better foundations for urban life."

Passage of the Safe Streets Act failed to lower the stridency of the law-and-order theme in Nixon's 1968 Presidential campaign. On September 29, 1968, in his first national radio address on crime, Nixon spoke prophetically:

> The truth is that we will reduce crime and violence when we enforce our laws—when we make it less profitable, and a lot more risky, to break our laws. . . . Today only one in every eight crimes results in conviction and punishment. Today an arrest is made in only one in every five burglaries. Today an arrest is made in less than a third of reported robberies. Today it is comparatively safe to break the law. Today all across the land guilty men walk free from hundreds of courtrooms. Something has gone terribly wrong in America.

Three months later the Safe Streets program was in the hands of the Nixon administration, where it has prospered ever since. Understaffed, low-paid, ill-trained police departments across the country eagerly grabbed at the new federal windfall—$63 million the first year, a fourfold increase to $268 million the next year, soaring to $891 million for fiscal 1974.

Where has all the money gone? Considerable amounts have gone to snowmobiles and outboard motors, as well as to motor scooters, helicopters, closed-circuit TV cameras, patrol cars equipped with "intensifier image orthicon" and other exotic forms of "saturation patrolling" of high-crime areas. Many states received funds for riot control programs—even Montana, Idaho, Vermont and Maine, where riots were not a worry until the federal funds came along. Others developed intelligence systems for predicting civil disorders—a "tension detection and forecasting capability" in Arkansas and Mississippi, and a system in Texas for evaluating where "civil disorder potential exists." A number of grants provided for police training programs; others launched enforcement, treatment and prevention centers for narcotic offenders; relatively small sums were allocated for court reforms and overhaul of the criminal justice system, for adult corrections programs and for juvenile counseling, treatment and diversion projects.

The LEAA was the instrument created to disburse the funds through a new bureaucracy with ten regional offices and a planning agency in each state. As a form of federal revenue sharing, LEAA administers only 15 per cent of the funds directly through discretionary grants; 85 per cent is allocated to the states in the form of block grants based on population. Since most of the federal programs require matching grants by the states and cities, the true cost of LEAA-sponsored programs is unknown and may be incalculable—except that it is far beyond the $5 billion allocated in federal funds alone. Few state or local agencies pick up the tab when demonstration projects are terminated.

Lacking clear priorities or performance standards, LEAA programs have done little to change the substance or direction of the criminal justice system; nor have they retarded the haphazard, oppressive practices of the past or reduced discriminatory treatment of the poor and the minorities. The biggest winners in the LEAA sweepstakes are the manufacturers and suppliers of computers, electronics equipment and surveillance devices—IBM, Burroughs, Motorola, RCA, Westinghouse, Litton, Honeywell, Bell Helicopter, Hughes Aircraft, among many others—which converted much of their military arsenal, field-tested in Vietnam, to the booming law-enforcement market. One estimate places the potential market for police hardware at $14 billion by 1975. In California, always a bellwether state, LEAA funds in excess of $100 million were used to advance the most sophisticated police technology to be found anywhere in the country—command and control systems, crime laboratories supported by satellite labs, automated manpower and resource allocation systems, helicopter patrols, computerized information systems and intelligence-gathering operations. "The net result of these efforts," concluded a study by the Lawyers Committee for Civil Rights Under Law, "is an increased militarization of the police. The transfer of military terminology and technology to law enforcement, the new advances in surveillance and intelligence gathering are all preparing the police for a combat role. There is a real possibility that the preparations themselves will contribute to conflict between one group of citizens and another."

Eventually, much of the expensive gadgetry and hardware will probably be consigned to the warehouse or the auction block. But some projects will remain, partly because of the huge federal investment in them and also because they are vital to the long-range strategy of the Department of Justice: to beef up the power of police and prosecutors, to strengthen the political power of the law-enforcement community, and to create a unified national police force. Destined to survive are the computerized criminal justice data banks which are proliferating across the country under LEAA auspices. The most im-



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portant of these was Project SEARCH (System for Electronic Analysis and Retrieval of Criminal Histories).

On the premise that criminals flee at will across state borders, Project SEARCH was launched in July 1969. A study of felon mobility, conducted by SEARCH itself, showed that "a relatively small percentage of offenders are really mobile in a national sense. This fact argues for regional systems interfaced between states rather than a national data bank." SEARCH then set out to demonstrate that a computerized system for exchanging criminal histories, or rap sheets, among the states was feasible and practical. Twenty states joined the demonstration project and became eligible for funds for systems analysis, data collection and conversion, file construction and storage. But according to an evaluation conducted by Data Dynamics, Inc., only ten states officially participated as observers, six states actually conducted demonstrations by entering some 10,000 offender profiles apiece into a central computer, and only New York made any extensive operational use of the system.

SEARCH was designed as an index—an interstate directory and clearing house for information on criminal offenders. It worked as follows: A police officer arrests a suspect in a robbery case. To find out if the man is dangerous, wanted in another state or city, or is a parole violator with a past criminal record, his driver's license or Social Security number is transmitted to the central index. The index responds to the query with personal descriptors and identifying numbers (date and place of birth, sex, occupation, race, height, weight, hair color, skin tone, scars and tattoos, FBI number, Social Security number, driver's license or other identifying numbers), plus a capsule criminal profile, and the name of the state holding the complete criminal record. The inquiring agency then has direct access through its state computer to the complete file in the state holding the record. The full information in this file is transmitted back through the central index to the inquirer's state computer. All this is to occur in a matter of seconds.

SEARCH was also supposed to provide the courts with better, quicker data relevant to granting bail, sentencing, probation and correctional treatment. However, only one court agency had a terminal during the demonstration period, and the participation of court and correction agencies was "very limited," according to the DDI evaluation. Moreover, under this data retrieval system, it would be possible for prosecutors to run the names of witnesses, jurors or other parties through the computer to help "determine the veracity of testimony"—an advantage not available to the defendant or his counsel, who might want to do some electronic frisking of prosecution witnesses.

Since most of the technology was already developed, SEARCH had only to develop a machine-readable format for criminal history data, and within a year SEARCH coordinator Paul Wormeli was able to pronounce the project a success. On July 1, 1970 (in a scene reminiscent of Don Ameche portraying Alexander Graham Bell), Wormeli wired Richard Velde, then associate administrator of LEAA: "The capacity for interstate transference of criminal histories has been demonstrated today." Two weeks later the system was put through its paces for Attorney General Mitchell and J. Edgar Hoover. A fortnight later, President Nixon was treated to a "brief presentation" of the SEARCH system in Denver.

Project SEARCH was important, but not because it did what everyone in the computer communications field knew it could do. It was important for two other reasons: it brought to the surface a power struggle between the Department of Justice and state-local police agencies for control of LEAA funds and policies, and it showed where the Department of Justice stands on individual privacy as affected by computerized data banks.

The man chosen to head the Committee on Security and Privacy of Project SEARCH, Dr. Robert R.J. Gallati, was remarkable not only for his impressive law-enforcement credentials but also for his uncommon sensitivity to the real and potential dangers of computerized criminal justice data systems. Gallati, who holds a doctoral degree in jurisprudence, was for nine years director of the New York State Identification and Intelligence System and for twenty-seven years a member of the New York City Police Department. In 1972, he wrote, "The threat to personal privacy is the greatest challenge facing our nation today," citing as his major fears: "Government manipulation of the public on a scale never before possible; total and continuous surveillance of the people longitudinally over time and in depth on sensitive matters; complete chilling of all dissent; popular abandonment of hope for a new life—redemption rendered hopeless; and final surrender of all individuality without even the scent of a *quid pro quo*." Strong words from a cop.

Gallati's committee developed a code of ethics and four technical reports which faced head-on the issues provoked by the new computer data banks. Recognizing that the same problems apply to *all* sensitive, or partly sensitive, public records, the committee focused on three major areas where privacy and security are of crucial importance:

(*1*) Unintentional errors, ranging from typographic errors to mistaken identities, are common enough in manual record keeping. But the consequences of computer errors may be amplified since many more persons may have access to the data and "the system response speed may exceed the error-detection and correction speed."

(*2*) Data can be misused, either out of context or for unlawful purposes, by those who have authorized access to the data, as well as by others who acquire the information surreptitiously. Instances of misuse may increase substantially over those of a manual system because of the increase in users, easy access under present lack of controls, and simply because "the computer itself introduces more opportunities for misuse" by the speed with which it searches and compiles.

(*3*) Intentional data change, such as destroying or modifying the stored information, increases in proportion to the degree of centralization of the system. A disc or tape file is thus more vulnerable to undetectable changes than the old-fashioned, inefficient paper file. *"It has been suggested that organized crime may attempt to penetrate the system for this purpose."* (Emphasis added.)

Believing that a system so potentially dangerous could still be brought under control, Gallati's committee de-



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veloped model administrative regulations that would inhibit errors, misuse and tampering with criminal justice files. Among its major recommendations were:

Restriction of data to those concerned with crime prevention, apprehension, adjudication or rehabilitation.

Segregation of criminal justice files (a dedicated system) so they cannot be modified, destroyed, accessed, changed, or overlaid by non-criminal justice terminals.

Provisions for closing or expunging criminal offender files after designated periods of time, depending upon the severity of the crime.

Restrictions on the use of criminal offender information for research purposes.

Maintenance by each criminal justice agency of a log of all agencies and individuals receiving criminal offender information.

Procedures allowing an individual to review and challenge the contents, completeness and accuracy of his own records, including notification of other agencies of errors previously disseminated.

Administrative penalties—suspension, discharge, transfer—for violations of the regulations.

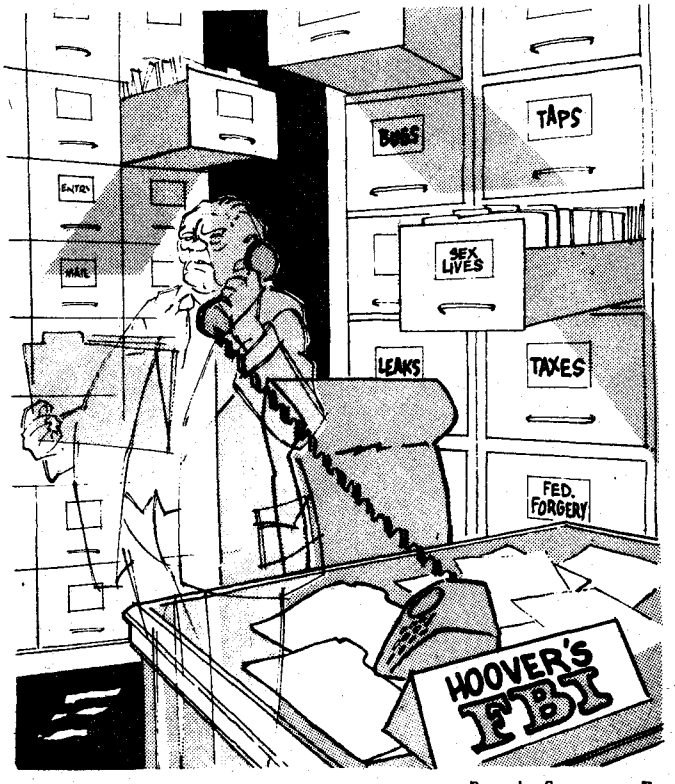
Limitations on dissemination of certain types of data to specified agencies and recognition that dissemination to non-criminal justice agencies carries "the gravest risk of security and privacy compromise."

Sensitivity classification of all data, from highly sensitive to restricted, and personnel clearances in accordance with strict right-to-know and need-to-know principles.

While far from leakproof, the proposed regulations were the most restrictive yet advanced for protecting the security of the data system and the privacy of the individuals named in its files. That being so, they were totally unacceptable to the Department of Justice. On May, 8, 1970, Jerome Daunt, a chief spokesman for the FBI, found the Gallati committee proposals "very objectionable." Listing sixteen major objections, he stated: "There can be no absolute right to individual privacy. . . . A public pronouncement of the concern of the SEARCH participants for American liberties is not necessary; this should be assumed. . . . It is questionable . . . to suggest that a citizen has the right to inspect and challenge the contents of Project SEARCH files. . . . I question the need for a 'code of ethics' in a test and demonstration project."

Six months later, the FBI took over Project SEARCH. Under authority granted by Attorney General Mitchell, the demonstration project was incorporated into the National Crime Information Center (NCIC) which has been operated by the FBI since 1967. The growing rift between the states and the federal government for control of criminal justice information systems was now wide open.

NCIC was touted by the FBI from the moment it began as "a phenomenal success," "a tribute to cooperative spirit" and "a new and powerful weapon against crime in our time." Actually, NCIC began as a fairly innocent and routine computer file on wanted persons and stolen vehicles, license plates, guns, securities, boats, etc. Through control terminals in all fifty states, the District of Columbia, Canada and all FBI field offices, some 6,000 police agencies (out of perhaps 40,000 nationally) can tap the bank for data on wanted persons and stolen property. NCIC now contains more than 3.7 million such records and handles 75,000 transactions a day with




Renault, Sacramento Bee

local, state and federal law-enforcement agencies, maintaining a daily average of about 700 positive responses, or, in computer lingo, "hits." Thus, one out of a hundred inquiries elicits some presumably useful information.

The typical use of the wants-and-warrants part of NCIC involves the patrolman on a beat who, for example, may stop a traffic violator with out-of-state license plates. The officer radios his headquarters for a check on the license number, to determine if the car was stolen or if the driver is wanted on another charge. If so, he makes an arrest instead of merely issuing a summons. Even this simplified data retrieval system has its problems. Since local police are responsible for both entering and removing information, a form of Gresham's law goes into effect, with bad information driving out the good. Thus, if a car is stolen in Pittsburgh and recovered in Akron, the Pittsburgh police may be quick to report the theft to NCIC but the Akron police may forget to record the recovery. As a consequence, some car owners are arrested for stealing their own cars. (In California, 90 per cent of stolen cars are "dropped" within eight hours of theft. As the result of computer errors, some $400,000 in false arrest suits were pending in 1973 against the San Francisco Police Department.)

The FBI estimates that by 1978 the NCIC's wanted persons and stolen property files will contain more than 10 million entries, nearly triple its present contents. And by 1984, fulfilling Orwellian prophecy, it will contain 21.7 million records. The FBI's own projection raises an interesting question: if the NCIC is such a "powerful weapon" against crime, why does the FBI anticipate that robberies and fugitives will increase sevenfold within ten years? The answer is that the purpose of NCIC is not to reduce crime but to build an information empire.

By late 1970, when the FBI took over Project



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SEARCH, the wants-and-warrants file at NCIC had already lost much of its glamour. It was time for NCIC to expand its reach, and expand it did by changing the SEARCH system from a central index of files controlled by the states, to a master repository of all criminal offender records, controlled by the FBI. In November 1971, the FBI jubilantly announced the formation of a Computerized Criminal History (CCH) file, a major expansion of the NCIC network. Again, "rising crime rates and the interstate mobility of criminals" were cited as reasons for the new file. Again, the system was touted as a major step toward fighting crime as well as a step toward "great savings in time and manpower" and "reduction in the number of duplicate records in local, state and federal agencies." CCH was envisioned as the ultimate in criminal justice data banks, with a goal of 8 million criminal history records in the NCIC computer by 1984.

Complete criminal histories contain information on arrest, detention, criminal proceeding, probation, incarceration, parole, or release from custody. But an arrest does not necessarily result in a conviction—only 20 per cent of the 3 million persons arrested every year are found guilty. The charges may be dropped for lack of evidence or the suspect acquitted, but the arrest record remains in the state files and, if the state is one of the few now participating in CCH, it also remains in that computerized system.

The vital part of a criminal record is the disposition of a case, especially in the event of acquittal or dismissal which, as noted, occurs 80 per cent of the time. But dispositions are not entered into the files with any degree of regularity. Neither the courts nor the police are diligent about posting disposition data, partly because of the extra paperwork involved and also because they claim that any arrest data, regardless of evidence or innocence, are useful in future investigations. Only twenty-six states require that dispositions be reported to their own state criminal data bureaus; a few states require reporting to NCIC but none of the requirements is widely or strictly enforced. Thus, a mere arrest qualifies hundreds of thousands of persons annually for a permanent place in the CCH archives.

Speed is the main selling point of CCH; the system can respond to some queries within fifteen seconds, and more than half are answered in less than an hour. Speed also makes the system faulty and deceptive. So far, there is no way to scan and classify fingerprints by electronic transmission. While prints may be sent by facsimile to CCH along with a request for criminal data, there is no assurance of accurate identification until the prints are classified by the FBI's Identification Division, a process which is more of an art than a science and requires a week or two. As the only source of positive identification by fingerprints, the FBI has custody of some 21 million prints of criminals and suspects, plus 40 million civilians, government employees, aliens and passport applicants. Speed thus becomes a dubious asset, unless one doesn't care all that much about accurately identifying suspects and offenders.

A recent study by the Comptroller General's office showed that CCH data are used mostly by judicial and correction agencies for post-arrest purposes, and for occupational licensing, employment checks, verification of identity of deceased persons, routine updating of files, and for testing of the CCH equipment. Only 27 per cent of federal requests and 32 per cent of state requests to CCH are related to pre-arrest investigation or apprehension. The study suggested that "a very quick response time is not vital," especially by federal agencies whose cases are usually protracted, and whose own files provide most information needed quickly.

Unnecessary speed, doubtful accuracy and the inability to supply disposition data are not the only problems that plague CCH. The murkiest area of all is that of dissemination—who has access to such sensitive data as criminal histories and where does it go from there? Under policies adopted in 1971, direct access to the CCH file through a local or state terminal is granted to: police departments at all levels, prosecutory agencies, the criminal courts, correction and probation departments, parole boards and "other agencies" which perform a criminal justice activity as their principal function. At the federal level, such on-line access includes: the Justice Department (Drug Enforcement, Immigration and Naturalization, Criminal Division, U.S. Marshals, Bureau of Prisons and U.S. Attorney's office); the probation office of the federal courts; the Treasury Department (Alcohol, Tobacco and Firearms Division, Bureau of Customs, Internal Revenue and Secret Service); the Postal Inspection Service; the National Park Service and the four military criminal investigative agencies of the Defense Department.

At the state level, access to criminal histories is alarmingly capricious. California gives access to police officers, district attorneys, probation officers, state courts, federal officers and *any* state agency, officer or official "when needed for the performance of official functions," and, commonly, to determine a person's eligibility for licensing or suitability for employment. Florida also provides criminal data for employment and licensing. The Comptroller General's study found in Florida at least thirteen criminal justice agencies that were not complying with state policies on dissemination; seven agencies gave information to unauthorized users, including city agencies and local private employers; other police agencies, contrary to state policy, turned data over to military recruiters and investigators, and one police department's criminal history files were open to the public. In Massachusetts, the probation department responds to phone requests for criminal history information without verifying the identity or authorization of the caller. Investigators were unable to determine who initiated about 10 per cent of the inquiries.

In testimony before the Senate Judiciary Committee in 1973, L. Patrick Gray III, then acting director of the FBI, conceded that arrest and conviction data are disseminated to federal, state and local governmental agencies "for other than law-enforcement purposes." Recipients of such data, mostly for employment screening and licensing purposes, include boards of education, alcoholic beverage control boards, real estate boards, licensing authorities for gun permits, the legal and medical professions "and the like," Gray testified.



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CCH files exclude juvenile offender information, Gray noted, unless the minor has been tried in court as an adult. However, "the massive size of the criminal files of our manual identification system prohibits the segregation of juvenile arrest records from adult arrest records. . . . All contributors of arrest data are aware that the FBI does not have any provisions for keeping juvenile arrest records which have been ordered sealed or which are otherwise required to be kept confidential in a separate file."

Still, Gray proudly noted that some progress had been made in the FBI's record-keeping apparatus during his brief and ill-fated tenure. No longer are records kept on certain minor offenses (drunkenness, vagrancy, disturbing the peace, curfew violations, loitering, false fire alarms, traffic violations not involving drugs, liquor, hit and run or manslaughter, and nonspecific charges of suspicion or held-for-investigation). And, lo and behold, no longer are records kept on persons more than 80 years of age!

The issue of dissemination of the FBI/NCIC arrest data was raised for the first time in a significant way by Dale B. Menard, a 19-year-old Los Angeles college student when he was arrested in 1956 on suspicion of burglary, booked, fingerprinted, held in custody for more than two days, and then released without being charged with any crime. A routine fingerprint card was sent to the FBI with the notation, "Released—unable to connect with any felony or misdemeanor at this time." For nearly a year, Menard and his family were locked in a battle to have his arrest record expunged: the Los Angeles police stubbornly refused to request the return of his record from the FBI unless ordered to do so by the courts, and the FBI will return records only at the request of the arresting agency. Menard took his case to court.

On June 15, 1971, U.S. District Court Judge Gerhard A. Gesell, in the District of Columbia, ruled that Menard's arrest record may not be disseminated to prospective private employers. Gesell held:

> While conduct against the state may properly subject an individual to limitations upon his future freedom within tolerant limits, accusations not proven, charges made without adequate supporting evidence when tested by the judicial process, ancient or juvenile transgressions long since expiated by responsible conduct, should not be indiscriminately broadcast under government auspices. The increasing complexity of our society and technological advances which facilitate massive accumulation and ready regurgitation of far-flung data have presented more problems in this area. . . .

Attacking the shaky ground on which criminal data collection stands (a 1930 statute codified as 28 USC 534), Gesell said, "It is abundantly clear that Congress never intended to or in fact did authorize the dissemination of arrest records to any state or local agency for purposes of employment or licensing checks." Since there are no criminal or civil sanctions imposed for improper use of data supplied to the FBI, Gesell warned: "Control of the data will be made more difficult and opportunities for improper use will increase with the development of centralized state information centers to be linked by computer to the Bureau."

Still, Gesell denied Menard's petition for expungement of his record, and the case was appealed to the U.S. Court of Appeals. On April 23, 1974—nearly nine years after Menard was arrested—the appellate court ordered the FBI to remove Menard's records from its criminal files. The court stated:

> The FBI cannot take the position that it is a mere passive recipient of records received from others, when it in fact energizes those records by maintaining a system of criminal files and disseminating the criminal records widely, acting in effect as a step-up transformer that puts into the system a capacity for both good and harm. . . .

Even this decision was settled on procedural grounds and applies only to the FBI practice of dissemination of an arrest record. It does not order expungement of the record from the FBI's criminal identification files nor does it affect the practices of state and local law-enforcement agencies. Possibly fearing that the U.S. Supreme Court may be ready to deal with the issue in a broader way, the Solicitor General decided not to appeal the Menard decision to the High Court. The decision conflicts with the official policy of the Los Angeles Police Department, which still refuses to request return of arrest records from the FBI except in cases of mistaken identity or when ordered to do so by a court of proper jurisdiction.

The FBI no longer boasts that NCIC will hold 8 million computerized criminal histories ten years hence. After four years of operation, only four states—Arizona, California, Florida and Illinois—are fully participating in the CCH system by storing criminal history records in both state and NCIC computers. Forty states have authorized access to the CCH file, even though their own state criminal histories are not a part of it. Six states have been denied access—Arkansas, Colorado, Kansas, Ohio, Kentucky and South Dakota—for failing to meet even NCIC's minimal security and privacy standards, while New York was forced out of CCH for refusing to update its records. Massachusetts refused to participate because CCH standards for privacy and security are much weaker than the state's own; Pennsylvania withdrew its records because conversion to a computerized system was too expensive. CCH now contains some 470,000 criminal histories, 200,000 of them from California alone. Even California's participation is lopsided, since the Los Angeles Police Department is not a part of CCH.

Among the earliest critics of the FBI's takeover of criminal histories were the directors of LEAA's state planning agencies. Speaking for them as chairman of their executive committee, John F.X. Irving of Illinois predicted in 1970 that turning over the collection of criminal histories to the FBI would "convert a cooperative state-federal effort into a federally run system in which the states would play a subordinate role . . . and would result in significant duplication of effort." The state director complained that while losing substantial control over the system, the states would have to bear the main human and financial burden of creating the files entered into the federal system. Since the states, in any event, will proceed with their own comprehensive criminal justice data systems, "a separate federally maintained file will be a wasteful, unjustified duplication" of state files.

Opposition to CCH has piled up ever since. Senator



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Mathias (R., Md.) called it the "raw materials of tyranny." *Computerworld*, a trade publication editorialized in July that it was "time to bury CCH," noting that the "unwillingness of forty-eight states in the Union to pay for the system demonstrates that it is not needed." Early in 1973, the General Accounting Office in a report to Congress had found that NCIC/CCH represented an open-ended commitment by the federal government "without an accurate forecast of all system costs and a plan for insuring the completeness of reporting." There is no assurance that the states will be able to meet the heavy financial burden or that the system will provide complete and accurate information, the GAO said, noting that only four states have adequate reporting procedures for both arrests and dispositions. The failure to restrict arrest data which do not contain follow-up disposition is a "serious system deficiency because it permits dissemination of arrest information without showing whether a person was convicted or found innocent." The GAO recommended: halt further expenditures until the reporting system is improved and exact costs for expansion are determined.

But for the most damning word on CCH one must turn to FBI Director Clarence M. Kelley, who wrote on January 31 to the Urban Policy Research Institute, a public interest research organization in California: "A more rapid flow of criminal offender information can bring about more realistic decisions with respect to bail, sentencing, probation and parole. *The detection of criminal suspects is not specifically embraced within this purpose, and there is no evidence available at NCIC by which to measure improved prosecution of criminal suspects through state access to CCH.*" (Emphasis supplied.)

So much for the FBI's "powerful weapon against crime," a popgun that fails to touch serious lawbreakers but scatters buckshot over ordinary citizens, who are often permanently scarred by a "criminal record." It is a system based on a flimsy, forty-four-year-old statute only slightly undercut by the Menard decision; a system that defies regulation and is "out of effective control" as a lower court stated in the Menard case; a system so deviously costly that even the GAO cannot determine its actual costs.

Where will the crime fighters go from here? Attempts are being made to clean up LEAA and dismantle some of its more hokey programs. CCH will limp along because no one can admit that it ranks somewhere between the Edsel and Thalidomide as a national disaster. Federal funds may entice a few more states into the CCH system, and some form of regulatory legislation may be passed, at last, by Congress.

Since 1965, Congress has considered 342 bills dealing with some aspect of privacy in federal agencies, but only two restrictive measures became law: one limited the use of wiretaps to police-related activity; the other gave consumers the right to challenge credit agency files. However, the Watergate revelations finally got the message across. On November 21, both the House and Senate approved by stunning margins the first major privacy legislation. It gave citizens access to many of the government records affecting them, limited the use of Social Security numbers for identification purposes, and restricted the scope of information collected and disseminated by federal agencies. The real showdown, however, is yet to come. Since federal law-enforcement agencies were exempt from the provisions of the recent bills, these agencies will be dealt with in S. 2963 and H.R. 12575, the Criminal Justice Information Control and Privacy Act, which faces lengthy debate in the new Congress. The proposed Act bars computerization of intelligence records; limits the dissemination of criminal records to the complete conviction record; requires updating of records to the extent that it is "technically feasible"; provides citizens with the right to access for purposes of challenge and correction; imposes civil and criminal penalties for violations of the provisions by data bank operators; installs a random audit system conducted by independent computer experts, and creates a new, independent federal-state cooperative agency to oversee enforcement of the Act and to take over policy control of the NCIC. The Department of Justice plans to draft its own bill.

Whatever compromise legislation results cannot keep pace with the data juggernaut which moves ahead relentlessly with more speed, dazzle and mystique than the average citizen can grasp. Already waiting in the wings and beyond the dress-rehearsal stage is still another, more advanced, telecommunication system for law-enforcement agencies. This one is called the National Law Enforcement Teletype System (NLETS), which originally operated entirely on teletype equipment and had no data storage capability.

NLETS is a nonprofit corporation operated by a consortium of states, with each state financing its own participation in a network of administrative message-switching terminals. State teletype terminals accessible to local criminal justice agencies are connected to a central terminal in Phoenix, Ariz. Until recently, NLETS was a private preserve of the states, kept under wraps through its nonprofit corporate status and accountable to no overall governmental authority. Once again, the bogus argument for "high-speed telecommunication" brought $500,000 from LEAA for a NLETS study and $1.5 million to help upgrade the system so that computers can be used to exchange information over high-speed telephone lines. Among the "growth areas" planned for NLETS are computerized criminal histories, interstate exchange of driver-record information, transmission of graphic data through facsimile or video media, the development of intelligence information bases and "criminalistic files."

Again, the FBI is sniffing around what it senses will be the successor to Project SEARCH and CCH. It has proposed that it, rather than the states, operate the central message-switching terminal of NLETS which enables the state computerized information systems to communicate directly. The GAO's legal counsel advised the Attorney General that "it is arguable whether there is adequate legislative authority to support the FBI's proposal to acquire administrative message-switching capability. Moreover, if the FBI obtains [this] capability, there is a question whether NLETS needs to exist." Such counsel has not been persuasive in the past. An FBI takeover of NLETS, which is opposed by the White House, would give the FBI control of all access to and dissemination of criminal data exchanged among the



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state and local police agencies. Its reign over the entire criminal justice data system would be absolute, since it already controls the nation's fingerprints and the criminal justice data base.

The simple truth is that nearly all computer data systems would have to be scrapped in order to guarantee adequate security and confidentiality. Because maximum speed rather than security and privacy was the rationale of computer design, it may be years before integrity can be built into the system, a development that will reduce efficiency and increase costs. Dr. Michael Munter, research and planning director for automated data and telecommunications in the General Services Administration, warned a conference sponsored by the National Bureau of Standards that the appearance on the scene of new computer networks complicates the problem, since the breach of one computer system can mean a breach in all the others in the network, increasing the likelihood of errors, tapping and tainting with false information. The computer community doesn't know yet what is involved in designing against leaks, Dr. Munter said, "or if we can get there at all."

Another doubter is Frank T. Cary, chairman of the board of IBM, the world's leading supplier of computer hardware. In a June 15th article in *The New York Times*, Cary wrote: "In the past you had to be famous or infamous to have a dossier. Today there can be a dossier on anyone. Information systems, with a seemingly limitless capacity for storing and sorting information, have made it practical to record and transfer a wealth of data on just about anyone. The result is that we now retain too much information. The ambiguous and unverified are retained along with legitimate data."

He concluded: ". . . one way of preventing misuse of personal information is to discourage its collection in the first place." □

AFTER STOCKHOLM

# PLANET-SAVERS IN NAIROBI

**JEFF RADFORD**

*Nairobi*

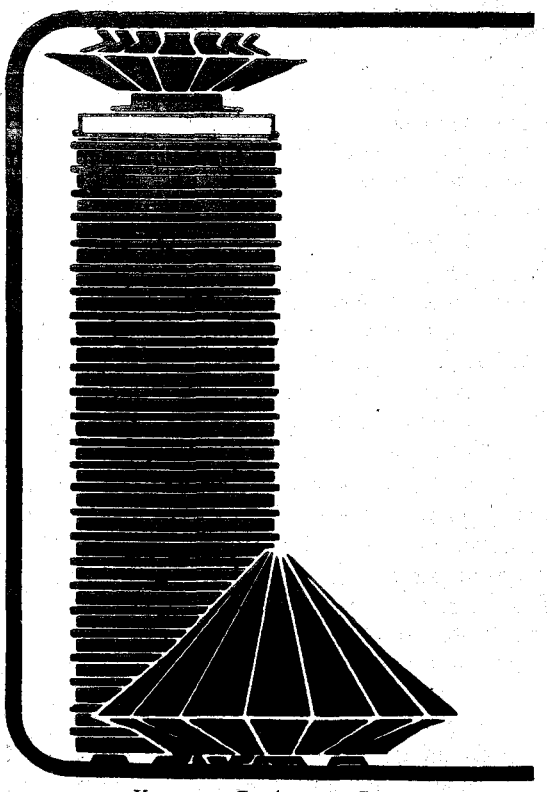
When the planet-savers swirled into Nairobi's tallest building, a cylindrical glass-and-concrete tower, a year ago to set up global headquarters for the United Nations Environment Program (UNEP), they came on with evolutionary zeal. Now, after a year of crises, the 29-story structure, Kenyatta Conference Center, seems more like a launch tower from which the environmentalists may blast off to a more hospitable planet.

What started in Stockholm in 1972 as a worldwide grass-roots movement to preserve a deteriorating environment has now been institutionalized as a U.N. agency with a staff of about 100 officers and a five-year budget of $100 million. Therein lies much of the problem.

Many of the prime movers who've marshaled the world ecological movement since the Stockholm Conference now think of leaving UNEP, if only because they find it exasperatingly difficult to move U.N. bureaucracy. Mostly, though, the catalytic personalities who created UNEP have little desire to stay on and administrate.

Although UNEP's executive director, Maurice Strong of Canada, has deliberately launched resignation balloons several times in the past, there are persistent indications now that he means to bow out soon. He was convenor and secretary-general of the Stockholm Conference, and has thus been immersed in ecological issues for the past four years. Although widely quoted as a prophet of doom, he believes that earth's environment can be maintained, but not without drastic changes in social, political and philosophical values. Having reiterated recently that he is a "committed internationalist," he will probably throw his immense energy to this revolutionary task should he resign from UNEP.

Departures by several other officials are expected within the next two years for similar reasons, although some of those most recently hired may be leaving because they misunderstood UNEP's mission when they joined up. "This is almost preposterous," complained a



*Kenyatta Conference Center*

*Jeff Radford, formerly with the* Toronto Star, *is now a free-lance journalist working in Africa.*



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newly recruited senior adviser. "I have no staff. How can I function when the government of Brazil comes to me for an action plan?" But the new agency sees its mission as primarily advisory. Rather than issuing action plans, UNEP prefers to offer competent direction as to how solutions may be found. During Strong's tenure the emphasis has been on enlisting collaboration from the hundreds of private and public research institutes around the world rather than on recruiting legions of experts into UNEP.

Instead of building an empire in Nairobi, Strong has sought to decentralize and avoid duplication. The much publicized Earthwatch project is an example. A global pollution-monitoring and information-disseminating system was perhaps the primary demand made by the governments which convened in Stockholm in 1972. The project is now under way, with preliminary results expected momentarily. Yet there are no UNEP Earthwatch monitoring stations anywhere.

Organized by Dr. Robert Frosch, who until he joined UNEP was Assistant Secretary of the U.S. Navy in charge of research and development, Earthwatch draws mostly upon existing monitoring programs by standardizing and coordinating ongoing research at institutes around the world. Typically, UNEP sponsors expanded programs within the World Meteorological Organization (WMO) to meet Earthwatch requirements.

The 150 or so projects in operation range from recycling waste water in the arid Middle East, to ecologically safe pest-control programs in Latin America, to conservation of microorganisms for food production in Asia. UNEP has given special attention to environmental reconstruction in West Africa's drought-stricken Sahel, and to the problems inherent in a global shift to nuclear power.

But much of UNEP's success since coming to Nairobi as the first U.N. agency headquartered in a developing country is of a different nature. The evangelical executive director considers that some 80 per cent of his task is ideological—spreading the environmental message around the world. When outlining his agency's achievements, Strong is likely to begin by saying that nearly every government now has some kind of environment program. He visited Peking in September, partly to learn how China manages with what would seem to be near-insurmountable ecological problems stemming from population growth.

Although Strong has a gift for turning crisis to advantage, the movement was hard hit by the global energy scare. "For a while I thought the energy crisis might lead to a dawning of sanity in our use of resources, but the sense of crisis faded too fast," he observed. Environmentalists were to have begun "negotiations" with representatives of the world's automotive and pulp industries this year, but the meetings have been postponed indefinitely. Anti-environment waves also washed over the Caracas Law of the Seas Conference last summer. The world's demand for oil and other minerals, it seemed, had to take precedence over the health of the oceans.

Still another setback came at the Bucharest U.N. Conference on Population last August, when the world community apparently failed to respond fully to the global threat of overpopulation. Population control is one of the key measures in UNEP's strategy for preserving the planet's environment. All things considered, enthusiasm of the late 1960s for environmental issues has faded—even though many perils foreseen at the Stockholm Conference are now frighteningly real. One reason is that the then affluent world could "afford" concern for the environment at that time; now its most pressing fear is financial collapse. Another reason seems to be the usual bureaucratic trap: problem cited/committee established/problem forgotten.

Strong's elusive goal has been to harness the spirit of Stockholm—which rallied thousands of world citizens behind him—without strangling it. "This is a great, great problem," he moaned. "How do you organize without bureaucratizing? . . . One of my greatest frustrations is how to balance the understandable needs of any bureaucratic organization with the essential dynamic that has to be injected on a continuous basis." □

# PRISONS: THE FAILURE MODEL

**DAVID J. ROTHMAN**

When riots broke out in American prisons in the early 1950s, the common response was to urge the building of bigger prisons and the recruitment of better personnel. When indictments of mental hospitals appeared (most dramatically in *The Snake Pit*), again the typical reaction was to urge the construction of better facilities, to improve the ratio of doctors to patients. Then, surprisingly, beginning in the 1960s, and reaching new strength during the past several years, a new phase began in the history of incarceration. For the first time, the reform attack was not on the inadequacies of the institution or the failings of their administrators but on the very concept of incarceration. The idea of prisons and mental hospitals was suspect. The system, not its guards or wardens or superintendents, was at fault.

This contemporary critique of incarceration does not follow political lines to any significant degree. Distinctions between the Right and the Left have little relevance: there is little difference of opinion between those who have worked within the system, and the academics or others who have analyzed it from a greater distance. On

*David Rothman, professor of history at Columbia University, is also senior research associate at the Center for Policy Research. He is the author of* The Discovery of the Asylum *(Little, Brown), and editor (with Sheila M. Rothman) of* On Their Own: The Poor in Modern America *(Addison-Wesley).*



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all sides there is a startlingly unanimous view: incarceration has failed. Institutions cannot rehabilitate. We had better devote unprecedented energy and attention to alternatives.

The consensus on failure is easily documented. A National Advisory Commission on Criminal Justice Standards and Goals issued a report on corrections in January 1973. The group was made up of police chiefs, judges, correctional administrators, prosecutors, as well as representatives from industry and citizen groups—a diverse assemblage, but hardly left wing. The members had little trouble in agreeing that "the prison, the reformatory, and the jail have achieved only a shocking record of failure"; moreover, "these isolated and closed societies are incompatible with the world outside." The commission called not only for a dramatic "realignment of correctional methods" but "a ten-year moratorium on construction of institutions." No bigger and better institutions for them!

An identical perspective characterizes the writings of a far more radical observer, Jessica Mitford. In her recent *Kind and Usual Punishment*, she takes a stand with those who insist: "You want to appropriate money for better prisons. I say, don't do it. Giving money to the states to build better prisons is like giving money to Himmler to build better concentration camps." The National Advisory Commission would not use that language, but it would agree with the ideas.

Or consider the views of William Nagel. A corrections administrator for eleven years, he undertook an analysis of prison conditions for the American Foundation, Institute of Corrections. The resulting recommendations, as they appear in his 1973 *The New Red Barn*, align with those of the National Advisory Commission and Mitford. "If this country is resolved to do something about the crime problem, the immediate thing it must do is call a halt to the building of new prisons, jails, and training schools, at least for a time, while we plan and develop alternatives." In brief, "we must . . . keep the lid on our Pandora's box of supposed correctional construction requirements."

The achievement of this degree of unanimity on the inherent defects of incarceration is remarkable. When a system is corrupt, the normal procedure is to single out one aspect of it, insist that if this part is improved then the system will function well, and so spark another round of reforming the institution. Indeed, that has been the cycle with prisons for more than a century. The problem, our predecessors claimed, was with a poorly structured hierarchy of administrative responsibility, or with an inadequate classification system, or with antiquated facilities, or with old-fashioned vocational training programs. The arrangements that are subject to reform within incarceration are endless. Hence the current ability to transcend this piecemeal approach—to go beyond the particulars for a more general analysis—is impressive.

It is fascinating to speculate on why our generation has made this breakthrough. Here are some of the contributing elements. Present discussion rests heavily on theoretical grounds, on such works as Erving Goffman's *Asylums*. Goffman first analyzed in persuasive detail the inherent and unalterable defects of reform through incarceration. No less important was the basic sociological research which has demonstrated the failure of any known program to reduce rates of recidivism. To be sure, there are methodological difficulties in any one of these studies. And recidivism rates are not always easily measured. Still, every study on the effects of reform programs, whether they be lower caseloads for parole officers or more social casework for inmates, or improved vocational training, demonstrates that such programs simply do not accomplish their purposes.

Moreover, our perspective of the deviant has changed. We no longer define the inmate as a creature apart, alien to us in all senses of the word. Perhaps we could not maintain the exclusionary view when black civil rights leaders, or middle-class draft resisters, or middle-class marijuana smokers were finding themselves within the institutions. In any case, the concept of inmate as citizen has enabled us to see more acutely than could our predecessors the need to launch an attack on the principles of incarceration.

Given the long tradition of reform without change, and the broad consensus that we do not know how to rehabilitate offenders, we now find ourselves in a unique position. We should, therefore, take advantage of this special moment to impose a different model on the incarceration system. Heretofore, at the heart of penal systems, or of

parole and probation programs, was a "success" model: we could reform the deviant. As an alternative, I believe we may accomplish more by frankly adopting a "failure model," by recognizing our inability to achieve such heady and grandiose goals as eliminating crime and remaking the offender. Let us accept failure, and pursue its implications.

We have, it turns out, many ways in American society for coping rather successfully with failure. In other areas, outside incarceration, we recognize it easily and accommodate ourselves to it surprisingly well.

For example, we are well prepared to handle business failure. In cases where a businessman cannot meet his debts, formal procedures allow him to pay off creditors in depreciated currency. We permit him to settle, without



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penalties, for 20¢ or 30¢ on the dollar. If we were to carry this model into the field of incarceration, we would first depreciate the currency of time. Since incarceration does not work, let us at least minimize the time spent inside by inmates. A dramatic shortening of sentences is appropriate. The business analogy can help us to bring precise measurements of time into the system of incarceration, getting rid of the inflated currency which now prevails.

For failure in such areas of hazard as fire or automobile accidents, we have again devised sensible ways to respond. Fire continues to take lives and property, but there is little new that we are going to do in this area. There is no public demand for bigger fire departments of cruising fire trucks, despite the fact that 12,000 people die annually in fires, which is precisely the number that die in homicides. Rather, we accept the continued presence of fire in our society, and respond essentially with an insurance scheme. Citizens and businesses carry fire insurance—not as a cure for the problem but as a means of protecting themselves as best they can against losses. It is time, I believe, to transfer this mode of operation to the area of crime. It would be the better part of reason to underwrite with state and federal funds crime insurance for all victims. This mechanism would not eliminate crime, but it would make its effects that much less onerous. No one would assert that such a scheme would really and fully compensate for physical injuries in an assault, any more than fire insurance can lessen the problem of burns. But at least, some mitigation of injury can be realized.

We have ways too of coping with failures of health. We do not understand the etiology of heart disease or the causes of cancer, yet we do have a strategy of pursuing epidemiology studies. The causes may escape us, but we make correlations. Heart disease often is associated with high cholesterol levels; cancer occurs more regularly in workers involved in asbestos production, or in those with high levels of cigarette smoking. These are, to be sure, limited findings, but they give us something to act on.

We can also make correlations in the area of crime. We know that when keys are left in car ignitions there is a greater likelihood of theft; or that muggings occur more frequently on dark and empty streets than on crowded thoroughfares. Hence, without grandiose promises, but also without a sense of futility, it is appropriate that we move to "target hardening," to responding to the correlations as best we can. We recognize fully that we may only be displacing events, that we have not reached the causes. But in the field of health we live with that, and we might do just as well to adopt it in the criminal area. In this context, the idea of a cashless society is not without merit; in fact, in all sorts of ways we are slowly moving to it. Exact change is one step in the direction, credit cards are another, and we may soon find that a person's signature is enough for the purchase of most commodities. State or federal insurance underwriting could easily distribute the costs of forgery and fraud.

Often too in the area of health, we cope with failure by redefining the nature of the problem. Thus, as the individual grows older, we witness deterioration of function, and a sequence of degeneration, and yet we do not label it disease. We give it a naturalistic term, call it aging, and more or less come to accept it. Transferred to criminal justice, this strategy would encourage as often as possible redefinitions to move incidents out of the field of crime. Aware of our inability to provide a cure, we would try to narrow the dimensions of failure. So in cases of prostitution, gambling, sexual practices between consenting adults and drug use, we would be well advised to eliminate intervention, to cut back on state action. The principle would hold too for youth. The expansion of the justice system to cover PINS (persons in need of supervision) cases has rested ultimately on a success model. One consequence of recognizing failure would be to restrict intervention to actual incidents of crime, not to conditions that we anticipate might in the future lead to criminal acts.

Another result of admitting failure is that it spurs research. Having recognized inabilities, we may try to correct them by reopening old questions, by exploring new avenues. It is time for just such an infusion of imagination and exploration into the field of criminal justice. Enough energy has already been spent on tinkering with institutional programs for the deviant. Let us instead cast out new nets, try to devise new programs, not because we see the prospect of ultimate cure but because we acknowledge our ignorance and think we may be able to devise better strategies for coping with it. And no less important a corollary of this statement would be that the burden of proof necessary to implement a program would be all on the innovator. The very premise of failure would protect us against launching programs that merely *promise* to do good, rather than marshaling data that show they *can* do good.

One conceptual implication of the failure model is especially worth pursuing. When business or health enterprises cope with failure, they are little concerned with questions of responsibility. Bankruptcy procedures, to be sure, do insist that the act not be used to defraud creditors; fire insurance companies make certain that criminal negligence was not at issue. But they are far more involved with the results and repercussions of failure than with pinning down responsibility. After all, we do not hold the defaulting businessman to very rigorous standards of imagination, energy or shrewdness in the conduct of his affairs.

To bring something of this orientation into the field of criminal justice would I believe be salutary. One need not discard altogether the notion of personal responsibility or the belief that criminals should receive their just deserts. Rather, it is the system's obsession with locating responsibility, with defining and responding to crime purely in terms of the criminal, that warrants change. To choose but one analogy, so long as we dealt with industrial accidents only in terms of the negligence and foolishness of the worker (a view that lasted until 1900), we did little to curtail or alleviate accidents. But once we had defined them as part of the factory system, we managed both to implement an accident compensation scheme for victims and to plan more imaginatively for reducing the number of incidents. So perhaps our obsession with criminal responsibility has led us to ignore the plight of the victim, or the immediate environment in which crime occurs, or even the issue of what ought to be defined as a crime. The success model that is rehabilitation can only perpetu-



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ate this narrow orientation. A failure model may help us to widen it.

As with any model, one can foresee abuse of the failure model. If the patient is dying, why not experiment freely with untested drugs? If we see failure, why not simply abdicate, lock up offenders, and throw away the key—the variant followed in Rockefeller's drug program. But these potential abuses violate the cast of mind that a failure model would promote. It proposes a way of managing, of responding in economical, humane and decent ways to problems that we are likely to have with us for some time. And the benefits of such a perspective should more than outweigh the dangers. It should, for example, help us to address and solve such immediate problems as how to release ex-mental patients into the community and not have them locked up in boarding houses all day, or given breakfast and then locked out of the houses all day. It is hardly beyond the capacity of a society booming with computer technology to administer a massive foster-home program, whether for mental patients, or delinquents or offenders on their way back into the community.

There has recently been much talk about the need to reintegrate the deviant back into the community. My notion, in sum, is that a necessary first step to that goal is to reintegrate the criminal justice system back into the community. There is much to be gained by bringing the standards of time and performance that we rely upon in the wider society into the area of criminal justice. When we stop isolating criminal justice, we may also stop isolating offenders. □

# ONE NIGHT IN STRASBOURG

**JOHN BERGER**

I had gone to the cinema. When I came out it was cold and wet. You could just make out the cathedral spire against the sky.

Between the cathedral and the station there are many cheap brasseries and cafés. I went into one where there was a crow in a cage, hung beside the bottles behind the counter. At that time I was thinking about a scenario for a film and this had led me to try to analyze the nature of passion. I had written some notes in a school exercise book which had squares instead of lines on its pages. I had bought the book in a village shop. Now with my back to the stove in the café in Strasbourg and a glass of tea and rum on the table in front of me, I began to read what I had written.

*The beloved represents the self's potential. The self's potential for action is to be loved by the beloved again and again. Active and passive become reversible. Love creates the space for love. The love of the beloved "completes"—as though one were talking of a single action instead of two—the love of the lover.*

The waitress has sat down to eat her supper. She has long straw-colored hair.

*With all those with whom we are not in love we have too much in common to be in love. Passion is only for the opposite. There is no companionship in passion. But passion can confer the same freedom on both lovers. And their shared experience of this freedom—a freedom which in itself is astral and cold—may give rise between them to an incomparable tenderness. Each time, the re-awakening of desire is the reconstituting of the opposite.*

A man comes in who clearly comes in every night. About 60. A state office employee. He goes up to talk to the crow in the cage. He speaks a bird language to it.

*The modalities of the opposition cannot easily be seen by a third person. What is more, they are continually being transformed within the lovers' subjective relationship. Each new experience, each fresh aspect revealed of the other's character, makes it necessary to redefine the lines of opposition. This is a continual imaginative process. When it ceases, there is no more passion. To conceive of the loved one as* all that the self is not *means that together the lovers form a totality. Together they can be anything and everything. This is the promise which passion makes to the imagination. And because of this promise the imagination works tirelessly drawing and re-drawing the lines of opposition.*

I pay the waitress with straw-colored hair, nod to the habitué who talked to the crow and start to walk to the station. No stars. There is twenty minutes to wait for the train. I look around the large closed booking hall. Three men are sheltering in it. A man is standing up asleep against the ticket counter, his head resting against a poster of a Loire château. Another man, head on his knees, is sitting asleep on the footplate of a weighing machine. Its rubber covering is warmer than the floor. Because a weight has been registered but no money put in and the weight not printed on a card, two lights on the face of the machine flick on and off, ceaselessly demanding a 50-centime coin. The most fortunate of the three is on the floor with his back pressed against the only radiator. On his head is a bright red knitted hat. The soles of his shoes have holes in them the size of eggcups. In his sleep he scratches his stomach.

*Lovers incorporate the whole world into their totality. All the classic images of love poetry bear this out. The poet's love is "demonstrated" by the river, the forest, the sky, the minerals in the earth, the silk worm, the stars, the frog, the owl, the moon.*

The man on the floor pulls up his knees to his stomach.

*The aspiration towards such "correspondence" is expressed by poetry, but it is created by passion. Passion*

*John Berger is the British art critic and author. His publications include* G, *a novel* (*Viking*), Art and Revolution (*Pantheon*), The Success and Failure of Picasso (*Penguin*) *and* Ways of Seeing (*Viking*). *Forthcoming, also from Viking, are* The Look of Things (*essays*) *and* The Seventh Man, *a novel about the emigration of European workers.*



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*aspires to include the world in the act of love. To want to make love in the sea, flying through the sky, in this city, in that field, on sand, with leaves, with salt, with oil, with fruit, in the snow, etc., is not to need new stimuli but to express a truth which is inseparable from passion.*

The man with the red cap has sat up and clambered to his feet. The man from the château takes his place by the radiator without a word. As he walks to the exit, the man with the red cap stops to adjust his trousers, which are halfway down his hips. He unclasps his belt and pulls up several shirts and a vest. His stomach and torso are tattooed. He beckons to me to come over. He is fat, his skin unexpectedly soft-looking. The tattoos show couples making love in many different ways: their outlines are in black, their sexual organs in red. Across his stomach and flanks the figures are as crowded as those in Michelangelo's "Last Judgment." The man shivers. "What can you expect?" he says; he doesn't bother to put the coin in his pocket but holds it in his fist until he reaches the café opposite.

*The lovers'* Totality Extends, in a Different Manner, *to include the social world. Every action, when it is voluntary, is undertaken in the name of the beloved. What the lover then changes in the world is an expression of his passion.*

The man in the red cap is going into the café opposite.

*Yet passion is a privilege. An economic and cultural one.*

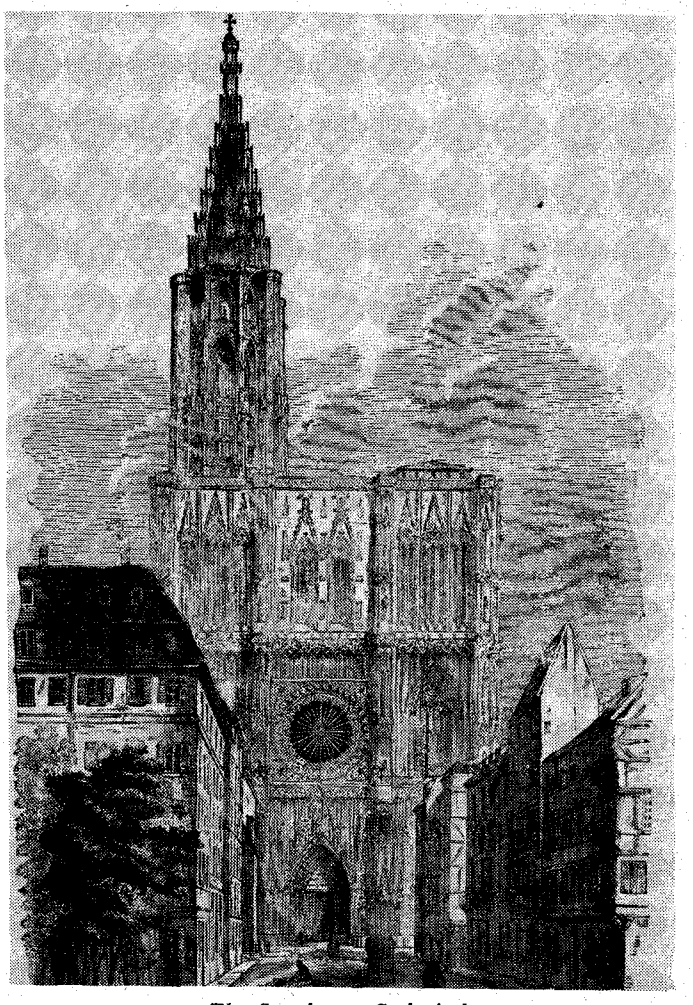
The train comes in. I get into a compartment where two men are sitting either side of the window. One is young with a round face and dark eyes; the second is about my age. We say good evening. Outside the rain is turning to snow. I find a pencil in my pocket: I want to write a few more lines.

*Some attitudes are incompatible with passion. This is not a question of temperament. A cautious man, a mean man, a dishonest woman, a lethargic woman, a cantankerous couple may all be capable of passion. What makes a person refuse passion—or be incapable of pursuing a passion which has already been born, thus transforming it into a mere obsession—is his or her refusal of its totality. Within the lover's totality—as within any—there is the unknown: the unknown which is also conjured up by death, chaos, extremity. Those who are conditioned to treat the unknown as something exterior to themselves against which they must continually take measures and be on guard, may refuse passion. This is not a question of fearing the unknown. Everyone fears it. It is a question of where the unknown is located. Our culture encourages us to locate it outside ourselves. Always. Even disease is thought of as coming from outside. To locate the unknown as being* out there *is incompatible with passion.*

The young man, who is a Spaniard, suggests that I take his seat by the window where there is a small folding table on which it will be easier to write. They are going to Mulhouse where they work in the same factory. The older one had been there for seven years. His family are in Bilbao.

*The totality of passion overlays (or undermines) the world. Lovers love one another* with *the world. (As one might say* with *their hearts or* with *caresses.) The world is the* form *of their passion and all the events which they experience or imagine are the imagery of their passion. This is why passion is ready to risk life. Life appears to be only its form.*

The older Spaniard, who is my age, is working on a piece of paper torn from the stiff cover of a magazine. With his large thumbs and nicotine-stained fingers he is carefully tearing small pieces out of it. The younger man watches him with the pride of an impresario: he has seen him do this before. But there is no audience for this act. It is



*The Strasbourg Cathedral*

gratuitous, in the small hours of the morning. As the older man tears at the paper, he makes the silhouette of a figure . . . head, shoulders, bottom, feet. He folds the figure lengthways and sideways. Then very delicately he tears a piece out of its center and folds the whole again. It has become a man, 4 inches high. When he pulls the folds open a penis stands up erect. When he closes them, the penis goes down. Because I am looking, he shows it to me. Otherwise he wouldn't have done so. The three of us smile. He says he can make it better than that. Almost gently he crumples the figure up in his hand. Under the folding table is an ashtray. He throws the figure into the ashtray, letting the lid close with a sharp *clack*. Then, with folded arms, he stares out of the window into the night. □



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# BOOKS & THE ARTS

## A Radicalism Beyond Politics

THE SEVENTH HERO: Thomas Carlyle and the Theory of Radical Activism. *By Philip Rosenberg. Harvard University Press. 235 pp. $10.*

**GORDON BURNSIDE**

There is a fine little passage in Walker Percy's novel *The Moviegoer* in which the narrator, Binx, checks into a hotel to read his way through to the Meaning of Things. The key, it turns out, is a book called *The Chemistry of Life*:

> When I had finished it, it seemed to me that the main goals of my search were reached or were in principle reachable. . . . The only difficulty was that though the universe had been disposed of, I myself was left over. There I lay in my hotel room with my search over yet still obliged to draw one breath and then the next.

Now Percy's Binx is not a political man, and certainly in no sense a radical, but the satori he describes here is one that many weary radicals would find intimately familiar. So much radical work, after all, is tied up with explaining. The radical is politicized in the first place as he discovers the world to be not just irrational but willfully irrational. Because there is a chasm between everyday wants and needs—especially the need to spell things out as they really are—and power regnant, he goes over into opposition: perhaps writes his own *Chemistry of Life*—his *Common Sense* or *On Liberty* or *Das Kapital*—or perhaps only tries to reorder his life according to the explanations of another's insurgent text. But, in any case, over the long haul he finds that an ineradicable gap remains. Even if *his* party comes to power, even if *his* principles become accepted wisdom, he himself is "left over." Power and politics are as abstract as ever. They do not cure solitariness or overthrow mortality. They do not dispense the breather from drawing one breath and then the next.

Or so most of us, who are in this sense conservative, believe. But there is another, deeper kind of radicalism—an elusive, extra-parliamentary, cultural-biological-mystical radicalism—that begins at just that point where ordinary radicalisms tire. Not anti-intellectual as is often charged, it is against discourse that is almost wholly explanatory. Not so much apolitical, it does look to unsocialized and ungovernable forces in human affairs to ultimately devour politics—to create a revolutionary kingdom where ideology evaporates, where public and private life effortlessly mesh, and where, above all else, the age-old Cartesian split between *subject* and *object* (the motor that generates politics) disappears from the face of the earth.

It is this radicalism, and not Marxism or laborism or some variety of guerrilla nationalism, that has so attracted Americans in our time. Even in the cautious 1970s the attraction pulls. One by one we go on unearthing the figures—Anabaptists, Diggers, Blake, Rousseau, Wilhelm Reich, even Nietzsche—who constitute the tradition. We dig them up, scrape them off, wash away old layers of judgment and interpretation: it's almost as if we want from them not radical answers but permission to be radical ourselves, radical in a way that will leave no part of ourselves "over."

This year it is Carlyle's turn to be hauled into the light. It has taken some doing. Until just this moment, his reputation had all but disintegrated: Eric Bentley, in an influential study of 1940, found him to be a proto-Fascist; other writers, when they bothered with Carlyle at all, have tended to describe a crabbed, embittered Victorian antique—a Dickensian troll, a Scrooge without the saving ghosts. It was Stephen Marcus' *Engels, Manchester and the Working Class*, published last spring, which began the reevaluation. Carlyle, according to Marcus, was Friedrich Engels' teacher. His writings introduced the newly immigrated young German not only to English capitalism and the outlines of a critique of it but also, through the dazzling synecdoches employed in *Sartor Resartus* and *Chartism*, to a practical context for the critical vocabulary Engels had earlier learned as a young Left Hegelian. Consequently:

> If Carlyle at first served him as a figure of transition between one culture and another, then he served him as well in the next great transition that Engels was to experience, the beginning of his relationship with Marx.

Not bad for a proto-Fascist. But now we have Philip Rosenberg's *The Seventh Hero*, which leapfrogs (almost literally, it seems, since Marcus and Rosenberg consulted each other as they wrote) past Marcus' book to present Carlyle as a full-fledged radical intellectual in his own right. At this juncture, however, the Carlyle revival begins to wobble. Where Marcus is persuasive, because he goes no further than portraying Carlyle as an enemy of Manchesterian capitalism, Rosenberg, who wants to show him as the friend of the Manchesterian working class, often sounds merely disputatious. Rosenberg's problem is that he has confused the two great radical traditions of the post-Enlightenment West and, as a result, has put Carlyle in the awkward position of trying to straddle both at the same time.

Carlyle himself always kept his radicalisms straight. "Will any Parliamentary Reform ever reform *me*?" he asked, early in his career, and his answer was always: No. A pietist Scot who once tried to interest his friend J.S. Mill in mysticism, Carlyle from the outset criticized liberal economics and reformist politics because they were, under the pretext of freeing man, a kind of radiography through which one could see only economic and political organs. Everything else—custom, religion, patriotism, community—was leftover scraps and was accordingly devalued. Furthermore—this was the most leftward edge of his thinking—*Laissez faire* and Reform were reifications, machines of the brain, which, since they were held to be the *real* governors of human affairs, became an excuse for the Victorian ruling classes to disavow responsibility for what went on in the society that they, by apparent coincidence, profited from.

It seems fairly clear that what angered Carlyle—as it also angered such diverse types as Marx, Nietzsche, Ortega and Yeats—was the moral shabbiness of it all. We speak often of Victorian hypocrisy, usually meaning sexual hypocrisy, but the worst hypocrisies were exactly what the Victorian bourgeoisie embraced as fundamental principles: that men could be happily reduced to their roles as producers, consumers and voters. Carlyle knew better. "I do not want cheaper cotton, swifter railways," he wrote in 1850. "I want what Novalis calls 'God, Freedom, Immortality.'"

Hating finance capital, contemptuous of the old English landed aristocracy for selling out, Carlyle (like the American New Left of the 1960s) spent his middle

*Gordon Burnside lives in Brentwood, Mo., and has contributed reviews to* The New York Times *and other journals.*



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## THE WEIGHTS

*In California you feel as if daylight*
*will last forever,*
*but even there*
*red vines crawl over the door,*
*the tree's shadow lengthens on the lawn*
*like an arm reaching for the house.*

*I don't want to end in the crystal,*
*locked in the doll-house.*

*I don't want to die like a hand in a pocket.*

*I am the boy*
*who wanted to fly, not caring how,*
*vampire or comic-book hero,*
*and I ask his forgiveness*
*for all the things I hid from,*
*for the weights I carry.*

Lawrence Russ

years shopping for a revolutionary agency to overthrow them both. In 1837 he published his three-volume *History of the French Revolution*. An eccentric work for its time and place, it accepted revolution as a natural event and treated the *sans-culottes* and their Jacobin leaders as admiringly as Trotsky would later treat the Petersburg soviet in his history. It is mainly upon this defiant admiration of the French *sans-culottes* that Rosenberg builds his case for Carlyle as a radical democrat.

But the trouble with this argument is that Carlyle would have been equally admiring of Frondist nobles if it had been *they* who seized power in 1793. As it happened, the nobility waffled and sulked —were, in a word, un-noble—and the Parisian *enragés*, boldly resourceful in a moment of social chaos, became by their very style a surrogate aristocracy. Carlyle's attitude toward them was like that of anti-Gaullists toward the General's artful withdrawal from Algeria in 1958: no matter what their ideological pretensions, he was bound to admire their moxie.

But he seems not to have expected to find the same kind of moxie on his own side of the Channel. In fact, Carlyle's indifference to the possibility of an English revolution is a sore point that Rosenberg comes back to, again and again. Thus, although Carlyle's most leftward years were coterminous with the rise of working-class Chartism, he remained aloof from it and ". . . one must conclude that Carlyle cannot be classified as a supporter of their cause for the simple but compelling reason that he never gave any indication of wanting to be so classed." Similarly, we are told that Carlyle, insofar as he had hopes for an English revolution, looked to Manchesterian factory owners to lead it, although, "after all of his revolutionary rhetoric, Carlyle ends up calling for a reform of the human heart. . . ." And finally, as concerns his personal investment in the movement for a revolutionary England—the ego-centered base for "the theory of radical activism—". . . in *Sartor Resartus* he failed to recognize that the 'work at hand' may be precisely the task of molding a new society—that is, precisely what I have been describing with the term 'action.'"

What then remains of Carlyle the radical intellectual? Once again—the appreciation of moxie. His best-known book is the *Heroes and Hero-Worship* of 1841. It is in this book that Bentley found Carlyle's Nietzschean proto-fascism thirty years ago, and that Rosenberg now discovers Carlyle's contribution to the theory of radical activism. By "heroes" Carlyle meant all those—the *sans-culottes*, Frederick the Great, even poets like Goethe and Schiller—who refuse to tangle themselves in markets or parliaments and insist upon (as Eldridge Cleaver used to put it) seizing the time in their own idiosyncratic way. What the theory of radical activism seems therefore to boil down to is: activism *is* radicalism. If it moves, it's radical. Rosenberg, ever insistent that Carlyle was a democrat with a radical democratic political program somewhere up his sleeve, latches onto a sentence from *Heroes and Hero-Worship* in which Carlyle hopes that there may some day be "a whole world of Heroes." This wish, if Carlyle had developed it, might have been the basis for an anarchist politics. He didn't develop it, even though forty years of life and work lay yet before him; we must assume it was a nice thought he couldn't take seriously.

David Daiches remarked some years ago on the fact that nearly all of the great Victorian writers—Carlyle, Dickens, Arnold, Ruskin, Morris—were opponents of the new capitalist, industrialized, rationalized England. They, and offspring like Yeats, Eliot and Pound, have been suspicious figures for us. Anti-capitalist on the one hand, they often seem like elitist right-wingers on the other. But we have probably read them in a far too narrowly political way. It's probably all right to consider them radicals, as Rosenberg considers Carlyle, but not as we ordinarily use the term. The great figures of modern English literature are, rather, therapeutic radicals—men opposed root and branch to what Marcuse calls "one-dimensional society": the rationalized, reified, infinitely explainable world where so many people experience so much of themselves as "left over."

It's very likely too soon to dig a political content out of this literature. There is, after all, a precedent. Long ago, two centuries before the birth of Christ, a similar intellectual radicalism swept China. That radicalism—a cultural-biological-mystical radicalism that was the protest of scattered alienated mandarins against another overrationalized, overorganized society—eventually had political consequences: the Taiping Rebellion and the Chinese anarchist movement from which Mao Tse-tung emerged. We may hope that, unlike Taoism, our therapeutic radicalism won't require two millennia to mature. On the other hand, though, as Rosenberg's book demonstrates, it doesn't help to push things. □

# The Revolution Rebukes Itself

THE ORIGINS OF THE CULTURAL REVOLUTION. Volume I: Contradictions Among the People 1956-1957. *By Roderick MacFarquhar. Columbia University Press. 439 pp. $14.95.*

**TIMOTHY MO**

In the summer of 1966, after some seventeen years of peace and modest prosperity (the most intensive in the country's modern history), China erupted into turmoil verging on civil war; a condition not to be disguised by optimistically labeling it a "cultural revolution." By the end of the decade the remarkably durable Communist Party that had politically survived both the invading Japanese and the Kuomintang had been destroyed by the rivalries of its own leaders.

Revolutions do commonly devour their own children: that the rogues eventually fall out amongst themselves is not only the unique consolation of the dispossessed but by now a piece of conventional wisdom. What made the Chinese spectacle so idiosyncratic was that it was the maker of the system who was destroying his own handiwork,

*Timothy Mo was born in Hong Kong and educated at Oxford, where he was the university's History Scholar. He works as a journalist in London, and lectures on Asian history at the Working Men's College in that city.*



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Lenin playing the part of Stalin. Mao's own longevity projected him into the lual role. He stands out among contemporary leaders for the duration of his stay at the center. He was actually present at the founding conference of he Chinese Communist Party in July 921 and its leader from 1935 onward. When the Communists took over in 949 they were led by a group of nen whose friendship had been consolidated by years of hardship and danger. It follows that the motives that led Mao to divest himself of his long-term comrades must have been almost unspecifiably complex. Roderick MacFarquhar's lucid, judicious and penerating book specifies them.

The official, Maoist explanation for the Great Proletarian Cultural Revolution ies it in with the struggle against revisionism at home and abroad. There s a residuum of truth in the theory. Mao was undoubtedly concerned that he Chinese would stray into the conumerist, bureaucratic courses into which he Russians had fallen and he was leeply disturbed by the Soviet policy of oexistence with the West. As leader of nation that had suffered humiliation t the hands of the former colonial owers, including the czarist government, Mao felt that the Chinese had a duty o the emergent nations not to go soft n imperialism. From the time that the Chinese abandoned the Soviet model of conomic development in the late 1950s o the open confrontation between the wo powers in the late 1960s, the Sino-Soviet rift interacted with the internal ower struggle in Peking.

It is more difficult to see those urged during the Cultural Revolution s the arch-apostles of domestic revisionsm. P'eng Chen, the Mayor of Peking, ad in fact incurred Mao's private displeasure for precipitately nationalizing rivate businesses in the capital in early 956. And the trial of Bukharin can ave been no more grotesque than the pectacle of Madame Liu Shao-chi forced o confess to her bourgeois misdeeds in Western-style cocktail dress, the last vord in sartorial decadence for the Red Guards.

The policy debates of 1956 were, as Mr. MacFarquhar proposes in common vith most interpreters, the source of he violent surface antagonisms of the nid-1960s. A highly significant year, 956, in which collectivization in China vas completed, Khrushchev made his ecret speech denouncing Stalin, and the Hungarian uprising took place.

Collectivization, which by contrast vith the traumatic Soviet experience, vas completed in China within a few nonths and without bloodshed, ended the first stage of the revolution. Mao subsequently felt that the time had come to achieve a major economic breakthrough, and, against the advice of the shrewder members of the Politburo, initiated the disastrous "Great Leap Forward." Such are the intricacies of "face" that it might have gone kinder with the Chairman's opponents had they been flagrantly, irresponsibly wrong.

The reception his colleagues accorded the de-Stalinization campaign in the Soviet Union also wounded Mao in Chinese fashion. By implication the campaign might contain novel and uncomfortable possibilities for him. Even though Mao was seriously considering phasing himself out of the political front line by the end of the 1950s, he still resented the lack of respect his colleagues were showing in being quite so keen about the whole thing.

Events in Hungary reverberated as loudly in China as they did in the Eastern European bloc. The Chinese leadership had originally taken a benevolent look at the Hungarian experiment but had then veered to back Soviet intervention after Nagy had declared his intention to take Hungary out of the Warsaw Pact. Privately, Mao took the lesson to heart. In the teeth of the vested opposition of the party cadres he decided to embark on liberalization. Not even he could endure the avalanche of criticism that followed; however, he would harness the same energies against his enemies during the Cultural Revolution.

Going outside the charmed circle of party initiates in the mid-1960s meant appealing to the politically energetic if one was to be effective—but also enlisting those who had not as yet been recruited into anyone's patronage system. This could point only to youth. The anti-traditional alliance with the Red Guards intersected with the parameters of another Maoist power base, rooted in the narrow provincial patriotisms of the past. Mao always found support among his fellow Hunanese and did not scruple to play the regional card by packing key positions with Hunanese (including Premier Liu Shao-chi, until his disgrace). Conversely, the Kwangtung leadership in the south seems to have been a particular thorn in his side during the difficult years, 1956-57.

One way of circumventing the Kwangtung leadership in the 1960s was to mobilize southern youth. Their education already set them apart from their elders. Indeed, one interesting feature of southern life is the difference of speech between the generations lower down the social scale, with parents conversing in braying, hillbilly Cantonese while the children have command of excellent Mandarin.

The conflict in the south seems to have been especially bitter, if the number of trussed bodies that floated down the Pearl estuary into British territorial waters around Hong Kong is anything to go by—but then it could simply be a matter of perspective. Even now, in a period of comparative thaw, the China specialists have to cope with the same paucity of evidence as medieval historians. Such evidence as they have they must treat with the greatest care. MacFarquhar has to arrive at his conclusions often enough from such clues as the order of speakers at a conference, the amount of applause they received, and what they left out as much as what they said. His interpretations are scrupulously reviewed and cross-checked in numerous notes and appendices. Excellent within its own frame of reference, the book also stimulates wider thinking. The appearance of the next volumes in the study should be an event. □

# New Poets To Be Seen and Heard

**GRACE SCHULMAN**

The union of two poetry contests under the title "Discovery—*The Nation*, '75," is designed to attract larger audiences to young writers through the combined media of publication and a poetry reading. The four winners, who will recite their poems at The Poetry Center on May 12, will each have one poem published in *The Nation*. Details of the contest appear on the next page.

The merging of those contests is of historical importance, for some of the major writers of the century, including Marianne Moore, Pablo Neruda and W. H. Auden, have read their poems at The Poetry Center of the YM-YWHA and have been contributors to *The Nation*.

*The Nation*'s dedication to poetry goes back to 1865, when Henry James reviewed the work of a relatively new writer, Walt Whitman. Although the novelist's appraisal of *Drum Taps* was unfavorable, he did speak for what he felt were "art, measure, grace." Two of the last poems of William Butler Yeats, "The Statues" and "Long-Legged Fly," were published in *The Nation* in 1939, the year of his death. In recent years,



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writers such as W.S. Merwin and Denise Levertov have served as poetry editors.

If The Poetry Center of the "Y" has not had as long a history, the art of spoken poetry had a great revival only in the 1930s, when auditoriums provided what literary magazines had offered a decade before. The great poetry of the century, however, has embodied spoken effects, such as rhythms that must be heard for their unity to be perceived, which probably followed Ezra Pound's admonition to "compose in the sequence of the musical phrase. . . ." Since many of today's college poets have a broader awareness of form, and use ancient oral forms such as flytings, night chants and dance songs, the art of spoken poetry may enjoy a new revival in the next decade.

In 1938, The Poetry Center of the "Y" was organized as a platform for established writers as well as exceptional new ones. Because the program could accommodate few new writers, however, "Discovery," The Poetry Center's annual competition, was organized in 1964 to honor poets whose work had never been published in book form. Each year, the four poets chosen as "Discovery" winners gave a group reading in the Kaufmann auditorium of the YM-YWHA. Many of them later published books, and some became the promising new poets of the past ten years, such as Mark Strand, Shirley Kaufman, J.D. Reed and Kathleen Norris.

*The Nation*'s Poetry Prize was first awarded in February 1920, and was last awarded in 1927. Controversy arose over one of the prizes, given to Eli Siegel for "Hot Afternoons Have Been in Montana." That poem was attacked by Ludwig Lewisohn, a contributing editor of the magazine, and Maxwell Bodenheim. It was defended, however, by William Carlos Williams, who wrote, twenty-six years later, "Only today do I realize how important that poem is in the history of our development as a cultural entity."

*The Nation*'s prize was discussed by Alexander Laing, a former poetry editor, in an article entitled "*The Nation* and its Poets" that appeared in the One Hundredth Anniversary Issue of this magazine in 1965. He remarked:

> All of the winners were young—the oldest, Roy Helton, was 35 when he divided the original award with James Rorty, four years younger. No previously eminent poet took first place, although Stephen Vincent Benét, who won the 1923 prize in his 25th year, was already the veteran author of four books, including two successful novels: *The Beginning of Wisdom* and *Young People's Pride*. . . . [There were] a total of thirty-five poets called to special notice during the seven years of competition. Ten of these now seem figures of some importance in the history of American poetry: Benét, Babette Deutsch, Thomas Hornsby Ferril, John Gould Fletcher, Alfred Kreymborg, William Ellery Leonard, Siegel, Genevieve Taggard, Allen Tate and Elinor Wylie. In nearly all of these cases, recognition was a forecast of fine accomplishments ahead.

In 1973, *The Nation*'s prize for poetry was re-established, limited then to college students. The winning poems were published on November 12. The First Prize was shared by Ricardo da Silveira Lobo Sternberg of the University of California at Los Angeles for "Poem from a Line of Rubén Darío," and Jean Feraca of the University of Kentucky for "Heart Attack." Second Prizes went to Annemarie Savage of the University of Montana for "Letter to Grandfather" and Jane Hirshfield of Princeton University for "Love Poem."

If *The Nation* and The Poetry Center share any characteristic in the poetry they have selected over the years it is, I believe, a search for the kind of newness that is permanent. To that aim—and to finding poetry that creates experience in readers and in audiences—"Discovery—*The Nation*, '75," is dedicated. □

## Contest Rules For Discovery—*The Nation*, '75

OPEN to poets whose work has not yet been published in book form.

THE AWARDS: An honorarium of $50 to each of the four winning poets of "Discovery—The Nation, '75." One prize-winning poem by each will be published in The Nation. Poets will be invited to read their poetry at The Poetry Center on May 12, 1975.

REQUIREMENTS: Approximately ten poems, or 100 lines, of original poetry in English are to be submitted. Among these submissions, at least five poems, or fifty lines, must never have been previously published.

MANUSCRIPT DETAILS: Four copies of each poem, each set of poems fastened securely together. Those to be considered separately for inclusion in The Nation to be marked by the word "unpublished." A cover page should include name, address and telephone number of the author. Individual pages must *not* show name, any biographical material or information indicating *where* a particular poem has been published. (This is to insure fairness in judging.)

Manuscripts will not be returned. The Nation reserves the right to publish at its regular rates any previously unpublished poem.

DEADLINE for receipt of poems: February 18, 1975.

JUDGING will take place in April; winners will be chosen by judges whose names will be announced after the contest is over.

SEND ALL ENTRIES TO: The Poetry Center of the 92nd Street YM-YWHA, 1395 Lexington Avenue, New York, N.Y. 10028. For further information, write Marianne Clay, Assistant to the Director, The Poetry Center. Or, telephone (212) 427-6000, Ext. 711.

# Books by Nation Contributors

*We list below books published in 1974 by writers who have appeared in* The Nation *this year. This compilation is a regular year-end feature.*

LAWRENCE ALLOWAY. *American Pop Art.* Macmillan Publishing Co. $9.95. Paper $4.95.

JACK ANDERSON. *Dance.* Newsweek Books. $10.50.

PAUL AVRICH. *Kronstadt 1921* (reprint). W.W. Norton & Co. Paper $3.45.

CALVIN BEDIENT. *Eight Contemporary Poets.* Oxford University Press. $11.95.

JOHN BERGER. *The Look of Things.* The Viking Press. $6.95.

WENDELL BERRY. *The Memory of Old Jack.* Harcourt Brace Jovanovich. $6.95.

DOROTHY BRYANT. *Ella Price's Journal.* New American Library. Paper $1.25.

MELVIN H. BUXBAUM. *Benjamin Franklin and the Zealous Presbyterians.* Pennsylvania State University Press. $14.50.

HAYDEN CARRUTH. *Dark World.* Kayak. $2.

JOHN CAUGHEY. *The California Gold Rush.* University of California Press. Paper $3.95.

*In Clear and Present Danger.* University of Chicago Press. Midway Reprint.



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J.S. SHARAT CHANDRA. *Once or Twice*. Hippopotamus Press, Sutton, Surrey, U.K. $1.80.

WILLIAM F. CLAIRE. *Publishing in the West: Alan Swallow*. Lighting Tree Press (Santa Fe). $6.

HAROLD CLURMAN. *The Divine Pastime: Theatre Essays*. Macmillan Publishing Co. $7.95.

*All People Are Famous: Instead of an Autobiography*. Harcourt Brace Jovanovich. $8.95.

*On Directing* (reprint). Macmillan Publishing Co. Paper $2.95.

CHRISTOPHER DELL. *Lincoln and the War Democrats: The Grand Erosion of Conservative Tradition*. Fairleigh Dickinson University Press. $30.

THOMAS M. DISCH. *334*. Avon Paperbacks. $1.65.

STEPHEN DOBYNS. *A Man of Little Evils* (reprint). Ballantine Books. $1.25. U.K.: Peter Davies.

LEONARD DOWNIE, Jr. *Mortgage on America: The Real Cost of Real Estate Speculation*. Praeger Publishers. $7.95.

CLAUDIA DREIFUS. *Woman's Fate: Raps from a Feminist Consciousness Raising Group*. Bantam Books. Paper $1.25.

CONNIE DUGGER. *Our Invaded Universities: Form, Reform, and New Starts*. W.W. Norton & Co. $14.95.

JOHN ERLICH. *Strategies of Community Organization*. F.E. Peacock Publishers. $7.95.

*Community-Action, Planning, Development*. F.E. Peacock Publishers. $4.25.

DAVID W. EWING. *Writing for Results*. John Wiley & Sons. $14.95.

*Science, Policy and Business*. Harvard University Press. $6.

BERNARD FEDER. *Viewpoints in World History* (revised edition). American Book Co. $9.20.

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# ARCHITECTURE / JANE HOLTZ KAY

Consider the chair—the essence of ambiguity. In repose, with the floor as pedestal, it is a sculpture; in use, it is a second skin, wrapping the user. The chair is at once an object of visual edification and functional necessity, and so a fascinating key to the mind of its designer-architect and the society that uses it.

Because the chair has closer relations with human beings than any other product of architecture or design, the humble object may even be called the architect's clock in the forest. If no one is in the forest, is there a sound of ticking? Well, then, if no one sits upon the chair, is it a chair?

Certainly it is, declared the early modern architects. For almost a century pioneer architects like Frank Lloyd Wright and Charles Rennie Mackintosh, and modernists like Mies van der Rohe and Le Corbusier simply deployed the chair as architecture. It was a handy way to order the room they had left wide open when they broke down its boxed dimensions in favor of Universal Space. Wright admitted his chairs were uncomfortable—so what?

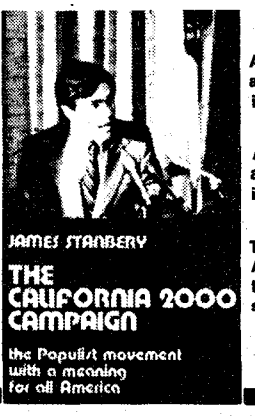
For Wright, as for almost every master architect since, the chair was a *tour de force.* Most master architects even left their names upon the article. Flip through the pages of history books like Kurt Rowland's well-integrated *A History of the Modern Movement: Art, Architecture and Design* (Van Nostrand Reinhold). Consult the October *AIA Journal,* devoted to the chair; visit expensive showrooms and offices, or see the ongoing exhibitions at New York's Museum of Modern Art. You can observe the architecture of every era in its free-standing offspring—the chair. Notice the intersecting planes, staccato rhythms and pulsing primary colors of Mondrian and De Stijl in the famous 1904 Rietveld painted chair—red, blue and black plywood planes, advancing and receding, more than "mere" furniture. Corbusier's masses—"the masterly correct and magnificent play of masses brought together in light"—are evident, too, in his chair. So it goes through the century.

Yet, it is also questionable whether the hero-architects at work, fixing their name to their chair, have ever had to lounge upon the object itself with any regularity; to squeeze themselves, say, into the Corbusier cube (or, for that matter, to meet its $1,200 price). Did Mies van der Rohe really sink into his right-angled Barcelona chair, or, avoiding his classic furniture as he fled his own gridded and glazed apartments to live in older housing, did the rotund purist settle into something older and less unyielding? Let Marcel Breuer carry on his fine inventions with cane and tubular steel. Let Josef Albers pursue his Bauhaus studio exercises with bentwood. We now know that the other master teachers of the Bauhaus were furnishing their dwellings with odds and ends and antiques. Machine-like designs would indeed have provided the excellent standardized chair for the many they dreamed about, but the dream was never realized. Today, these slickly tooled chairs bear price tags that show their distance from mass-production economies, and from their makers' dreams. In a half century of work, only the Scandinavians, with Aalto's later bentwood designs, have achieved really affordable, attractive creature comfort for all.

That has changed slightly in the last decade. If the chair was a sculpture, and a costly one, for the early moderns, it has become a womb for our more relaxed era. A chair is no chair without its occupant in this touch-see-feel age; even pebbles bagged in vinyl—the great flop-all bean-bag—will do. The chair can be inflatable, foamy, a great puff, say our new seekers for the sensual. Aesthetics are irrelevant. Although the cushiony Italian models have fine flair, their wrinkly mimics do not. Mere looks, their designers would have us believe, come last.

Again, the chair merely mimics the larger built world: the gulf between the sleek and staggeringly expensive gem for the corporate rich and the ragtag comfort for the rest of us. In the century since William Morris toiled to carry art far beyond "the swinish luxury of the rich," we, like that English social aesthete, have been condemned by our passion for quality to honor the democratization of the arts in theory only. In furniture design, as in architecture, the same figures hold: 10 per cent of the product is created by designers with some regard for the integrity of the object; 90 per cent is shaped according to the arithmetic of profit and loss. Much used, much studied by architects, the chair remains a poor piece of work.

Arthur Drexler of the Museum of Modern Art may have explained it in the above-mentioned *AIA Journal* chair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issue: "The chair is the only real furniture design problem. Everything else can be part of the building." That may also explain the recent concentration upon the article.

At the Museum of Modern Art the chairs by Charles Rennie Mackintosh fit out an eerie exhibition space, through January 12. Most assuredly, the museum does not handle these pieces as Drexler's (or our) "problem." The chairs by the Scottish pioneer who lived from 1888 to 1928 are shown as set pieces, sculptural objects, given the glass case, spotlight and pedestal treatment.

Through the years, the Museum of Modern Art has so exhibited *all* its design objects—as "art" rather than as anything that touches "life." Perhaps that is understandable, lest the museum look like Bloomingdale's or Design Research; perhaps it was once explainable as an attempt in a pre-Pop art era to show how the ordinary relates to art. But to have would-be touchables on show (as in the 1972 "Italy: the New Domestic Landscape" or the pieces displayed permanently in the Museum of Modern Art design collection adjacent to the Mackintosh installation), but removed and rarified seems counter-productive. Can we really appreciate or disseminate such handsome domesticities only by enshrining them as art?

In the case of Mackintosh, it was predictable that his fragile chairs would get this protective distancing. In the museum's dim and luminous atmosphere, the chairs do not look either functional or sculptural; they look anthropomorphic. If they could talk, these chaste objects would speak in clipped, hushed tones; these prismatic chairs would wear white gloves. What a civilized fantasy these straight-backed creations evoke in this ghostly place! What *politesse* in their carved linear arabesques, in their painted white and silver geometries, in their pale velvet seats! Did their occupants ever talk? And yet more mundane historians can easily discern their transitional role in architecture—both the pure line that forecast the Machine Age and the sinuous floral tracery of their carving that belongs to the ways of an earlier era—of Art Nouveau, of Beardsley, of the more subterranean Victorian impulses.

The photographs that accompany the show reveal this transitional nature. They depict Mackintosh's original tearoom settings and the School of Glasgow that gave him his place as a founding figure. Equally devoid of life, these photographs underscore the icy sensibility of the exhibition. The twenty or so chairs, whether boxy lug chairs, a lattice grid, or a ladder-back stretched and narrowed to a caricature of the human form, are pure "architecture," not comfort. They might as well be stapled to the wall. They are beautiful to contemplate, graceful and elegant, but their hard edges do not tempt the sitter. One wonders just who will buy the new reproductions of them created by Prof. Filippo Allison of the University of Naples and priced upward of $1,000.

Another doubt persists. Were human beings in fact an impertinence in Mackintosh's tearooms, as they seem to be in the installation by Emilio Ambasz at the Modern? Were his chairs, so similar to the room dividers and space-shapers of Wright's dining-room sets, put there only to shape the space? Or is it that the museum-ifiers have made them seem so? Mustn't the architect who so accented the functional aspect of the building at Glasgow have given at least a nod to the occupants of those rooms? As in the bedroom designed by Mondrian and reproduced at the Pace Gallery a few years ago, one suspects that the 1970s followers and reconstructers went beyond the original, showing a zeal that was not in the master. And one wonders, too, how the perfect set pieces they have raised onto their pedestals will play in Peoria—more precisely, during the show's travels to the Indianapolis Museum of Art (May 13-June 22); Elvehjen Art Center, Madison, Wis. (August 17-September 28), and the Virginia Museum of Fine Arts (January 11-February 22, 1976).

"In the end we will sit on resilient air columns." So went the optimistic aims of the Bauhaus in the decades that followed Mackintosh. The furniture of the ensuing Machine Age did its best to approximate that suspended state, even to the silver-legged staples of Charles Eames in our own country and the light-color, light-weight look of the Scandinavians.

But, as the *AIA Journal* chair issue shows, another sort of technology is at work now: the Italians who took off from Eames, as Eames sprang from Aalto, have used new plastics and plastic foams to create the plush pieces of today. They suggest the pillow, if not the unmade bed.

"It is an irony of history," Drexler notes, "that Italian progress in product design has occurred without corresponding architecture advances, which is in part a result of the economic situation in Italy." Is that true? If the chair seems more detached from architecture than ever before, I feel it is because architecture has detached itself from a single style and turned toward its human inhabitant. The pieces produced and shown in the magazine and, to an extent, in the Modern's permanent collection, sum up the change in chairdom, from the building to its occupant. They relate to environmental impulses (furniture that fashions a whole room); human anatomy (at least the let-it-all-hang-out sprawling posture of the hour); and to organic and craftsmanly impulses.

The era is other things than eclectic, of course, and so is the architecture of the chair. The times, as the *Journal* notes, create a "stack-and-pack" mobile era, though unfortunately the magazine photographs examples less attractive and comfortable than the model invented by David Rowland. It is an era of *fantasy* and humor (the whimsical Ionic capitals as stools in foam rubber; the anthropomorphic or animal forms popping up everywhere). It is an era, too, of the handmade. This last the architects by and large ignore; refreshingly, the magazine picks some examples. Wendell Castle's sprawled wood pieces, some reproduced in plastic, have spawned a new generation free to curve organic shape, like Ellen Swarz or George Nakashima. Where the late Wharton Esherick's work seemed somehow out of the mainstream and wayward to the early modernist sensibility, carvers like Jon Brooks who hew to the growing shape of the tree have now become "natural." Sam Maloof, Arthur Carpenter, Jere Osgood and many others are far removed from the traditions of formal room-oriented corporate architecture described above. But they

## OF THE GROUND

*I like to stumble through meadow grass*
*For a minute, thinking how hair grows*
*Thinly or thickly on all parts*
*Of the earth, green or black-flecked like*
*The small twigs you can't help cracking*
*Away from tree-trunks as close to the base*
*As you can. Grasshoppers jump me. I move*
*To the slick black road through burrs, thinking of deserts:*
*Blond deserts, shaking their hair in the thick wind.*

James M. Rawley



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Unlike the Watergate team, the operatives for the secret bombing did not bungle away their potential for harm. Thousands of irregular orders were obeyed like clockwork--as people falsified their records and burned their secret orders when they

(more)

We'll get back to those secret orders momentarily. First, about that parenthesis . . .

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Which brings us back to those secret orders. What author Taylor Branch, writing in a recent issue of [MORE], reported after the parenthesis was that "people falsified their records and burned their secret orders when they were supposed to, so that the B-52's could do their work without making any noise back home. . . . No one could have known, because the Administration didn't talk and the press didn't snoop very hard."

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are closer, as the chair must always be closer than its makers realize, to the spirit of the hour. It is an hour when the individual, the vernacular builder, the "handmade house" find favor in architecture's humanistic new counter-culture. □

# ART

## LAWRENCE ALLOWAY

The word ecology is in some disrepute at present. It became a slogan a few years ago, was given passionate media coverage and then dropped, as popular topics are —not solved, merely overexposed. Tomás Maldonado discussed the communications overkill of ecology brilliantly in *Design, Nature and Revolution* (1972). Sudden exposure happens to a lot of good ideas, however, and brief public enthusiasm should not be taken as their terminal state. Artists continue to use ecology seriously as an organizing principle and recently the works of several coincided. The term ecological art can be used to refer to environmental art in relation to nature rather than to the city.

One should start by distinguishing it from Earthworks. They have in common outdoor placement, large scale (often) and the use of local materials. Earthworks, though a radical extension into the scale and materials of landscape, retain a certain compactness. For example, Michael Heizer cuts graphic forms into desert floors or blasts voids into mesas. He is a painter too and an exhibition at Fourcade, Droll (until December 21) consists of simple geometric forms keyed to the shape of the canvas: rectangles, circles. In their Euclidean clarity these forms are similar to the multi-ton marks Heizer makes on the earth of Nevada.

Natural materials, literally taken from the site and disposed monumentally define Earthworks, as a rule, though they have been done in terms of the harvest, transport and storage of crops bought by the artist. But whereas the earth artist resists or submits to process in terms of corrosion, silting up, or immersion, the ecological artist initiates such processes. What he needs are forms of sculpture amenable to environmental activity. That is, forms with flexible boundaries, supporting change rather than being closed to external activity. An arrested state in the flow of change would be a failure in an ecological work of art, whereas this fixed state, understood as permanence, is the aim of most artists.

Audrey Hemenway has built, on an 8-acre rural site in the township of Marbletown, N.Y., a structure that combines the functions of sanctuary and greenhouse. It resembles two conical tents, which interpenetrate near the ground and thrust apart higher up. They are 21 feet high and made of a fiberglass skin stretched over a supporting mesh of steel cables. Entrances are at both sides of the ground-level overlap. The walls are translucent, so that sunlight penetrates to the double-conical interior. Hemenway intends the place as a shelter for wild creatures, and as an incubator for early vegetables. From the outside the resin-doused skin looks weathered and inside one seems sheltered by huge wings, the membranes of which carry the flickering shadows of foliage.

This Rousseau-like pavilion represents an abrupt but logical increase in the scale of her work. She used to make indoor gardens, rocks, water troughs, simulating natural processes, but with the completion of this "Ecological Environment," as she calls it, nature is admitted directly. The possible occupants of Hemenway's place (deer, raccoons, rabbits, tomatoes, melons, people) are not matched in ways that really constitute an ecological niche. It is too much like a mixed-income, racially diverse housing project for that, but it is designed for patterns of changing use. Her loose schedule is probably the best way to use a site which, though rural, is in fact solidly cultivated and well-occupied, though not densely.

A problem common to both Earthworks and ecological art is access: such pieces are usually out of town and sometimes remote. One solution is to show small works which use a principle similar to those of the full-scale environmental pieces. Dennis Valinski showed gauze and twig sculptures at Gallery 210, but I was glad to have seen a large piece, "Slicis," at the Storm King Art Center. The center is remarkable for its outdoor sculpture park, dotted with recent and current hardware. (Imagine a battlefield dotted with the wreckage of tanks, but all spic-and-span, and you will have some notion of it.) Valinski, however, preferred the unoccupied zone of the park, with a stream and crowded trees. "Slicis" was a half-camouflaged piece, with indeterminate boundaries, zigzagging around the stream. Constructed of green nylon nets on bamboo poles, it resembled, except in function, the nets by which hunters snare delicious little birds in 18th-century genre paintings. This comparatively wild area of the Storm King Art Center is to be used next year by Alan Sonfist, who plans to stake out an area of forest, subtract non-indigenous growths, and so make an original clearing.

To the access problem of ecological art can be added the patronage problem of getting it made at all. Who will fund, for example, "an estuarial farming system in the midst of the Colorado desert, using a mix of waters from the All-American Canal, the Pacific Ocean and the Salton Sea"? That is a brief description of Newton Harrison's proposal for "The Fourth Lagoon," one of two major projects at the Ronald Feldman Gallery (until December 28). It is visualized with maps, photographs and a text that outlines in convincing detail the tasks involved and the procedures to achieve them. The other big project is a "Meditation On the Condition of The River Seine and The Excavation of Les Halles." It is important to realize that such proposals are absolutely in earnest. They are not like the urban transformations proposed by the Surrealists, such as Paul Eluard on the Arc de Triomphe: "Lay it down and make it the most beautiful pissotière in France." Harrison's scale is enormous but his scenarios read convincingly. "The waterflow system can be designed to present a generally placid surface or to generate turbulence or even a fountain." Harrison is an artist aiming at the scale of macro-aesthetics with systems of information sufficiently sophisticated to make it believable. He has not lost, however, any of the traditional artistic gift of image-making. His proposals are not only an interim step between the conception of a work and its realization. The complexities of the maps and the codes he uses are lyrically handled to make an ambiguous exchange between site and metaphor, real world and imagined world. □

### THE COLLECTOR

*I would acquire only those goods the gods*
*themselves approve: an agate falcon, a book*
*lettered in black and gold, a marble shell.*
*The wood angel holding a broken bird*
*they will also allow, since he like them*
*knows ownership to be but borrowing.*
*All other goods I lay up in my mind.*

James Finn Cotter



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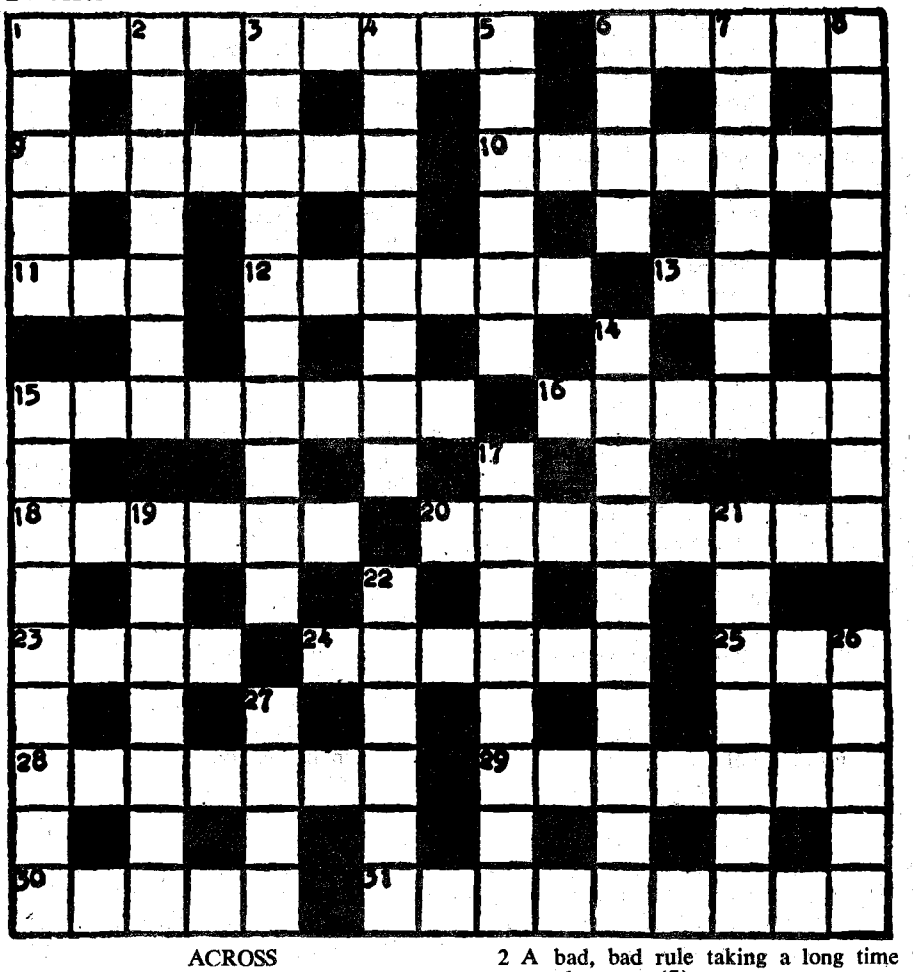
# Crossword Puzzle No. 1565

**FRANK W. LEWIS**



## ACROSS

1 How a matriculating student advances slowly? (2,7)
6 and 9 See 25 across
10 Time necessary to get from the Medoc to Berlin? (7)
11 Somebody has to pick it up after the party! (3)
13, 12 and 17 down The vaudeville act verbally offers testimony of what the criminal sometimes does. (4,6,8)
15 To tell the truth, one doesn't, with one kind of celebration to toss without the rest. (3,5)
16 Possibly film is formed here. (6)
18 Does it take a number to tie the Navy goat, for example? (6)
20 and 30 It doesn't necessarily involve the Mets making a deal with the Whales! (8,5)
23 This composer was all mixed up with nothing to show for it! (4)
24 Ole Anderson or Dick Swenson might show his background. (6)
25, 6 across and 9 A dirty habit might be—and many users might make something. (3,5,3,4)
28 Is a mild expletive awkward without room for the patient bird? (7)
29 Possibly engrain, or getting close to it. (7)
31 Petersen's false disguises? (9)

## DOWN

1 Might serve as the Health Club's motto, and pass as suitable. (5)
2 A bad, bad rule taking a long time to get 6 across. (7)
3 What's good about a sewer project? Goosefoot is an alternative! (10)
4 Sets aside what might grow into cauliflowers. (8)
5 One who might like a drag or stag affair? (6)
6 and 27 Letters from a strange witch are instructions on how to handle certain things. (4,4)
7 On which partners are sometimes found headed again. (7)
8 It only takes one user or so to be mistaken. (9)
14 Grim pursuit some sailors take up. (5,5)
15 Calcium carbonate, not heavy, shows up the player. (9)
19 This peculiar isle is a European region.
21 What a bookkeeper sometimes makes in the race, perhaps. (7)
22 A dummy model. (4-2)
26 Hones, perhaps. (5)

## SOLUTION TO PUZZLE NO. 1564

ACROSS: 5 and 1 Proper fraction; 10 Mimic; 11 Adjourned; 12 Limning; 13 Cliches; 14 Stages; 15 Sensate; 18 Hardtop; 21 and 24 In full retreat; 26 and 27 The talk of the town; 28 Tacit; 29 Strays; 30 Aspersed. DOWN: 1 and 6 Family reunion; 2 Alma Mater; 3 Ticking; 4 Oranges; 8 Radishes; 9 Ejects; 16 Alliances; 17 Chariots; 19 Thereby; 20 Potion; 21 Intones; 22 and 7 Feel the pinch; 23 Skated; 25 Tutor.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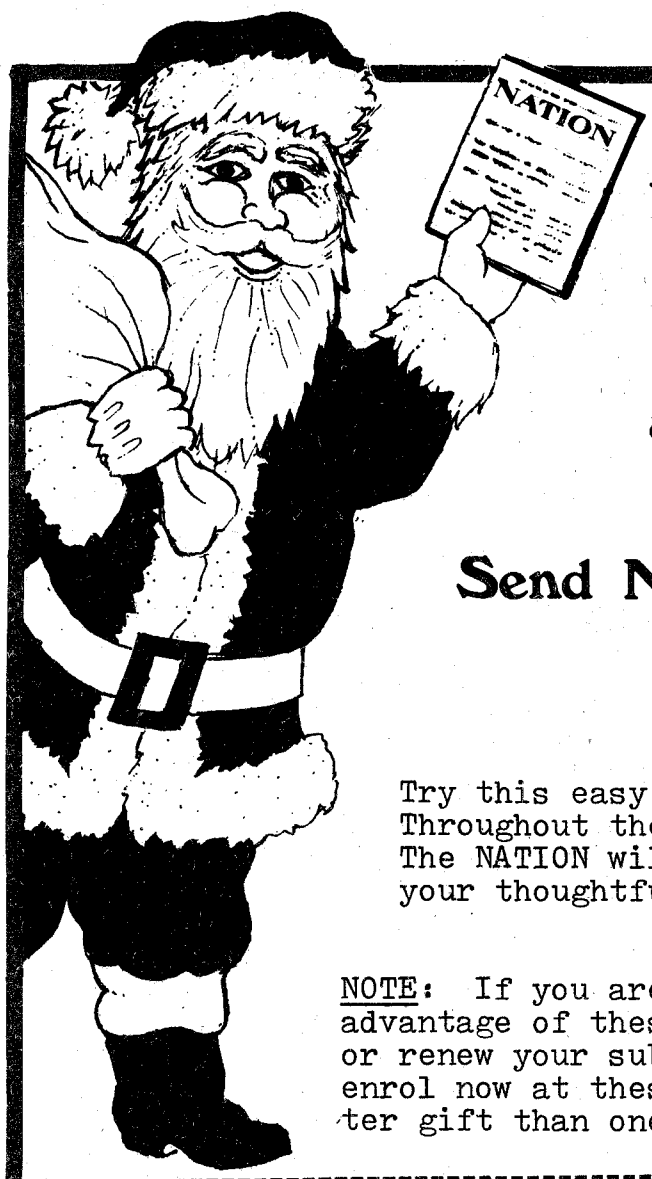


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